



859062

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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The Committee on Health Policy (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (10) of section 393.063,
Florida Statutes, are amended, and subsection (25) is added to
that section, to read:

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

(1) "Adult day training" means a program of training



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11 services which takes ~~that take~~ place in a nonresidential
12 setting, separate from the home or facility in which the client
13 resides, and is ~~are~~ intended to support the participation of
14 clients in ~~daily,~~ meaningful, and valued routines of the
15 community. These services include, but are not limited to, the
16 acquisition, retention, or improvement of self-help,
17 socialization, and adaptive skills ~~Such training may be provided~~
18 ~~in work-like settings that do not meet the definition of~~
19 ~~supported employment.~~

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

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

27 Section 2. Subsections (6) through (11) of section 393.065,
28 Florida Statutes, are renumbered as (7) through (13),
29 respectively, present subsections (1) through (12) are amended,
30 and new subsections (6) and (9) are added to that section, to
31 read:

32 393.065 Application and eligibility determination.—

33 (1) An application ~~Application~~ for services must ~~shall~~ be
34 made in writing to the agency, in the region ~~service area~~ in
35 which the applicant resides. The agency must ~~shall~~ review each
36 application and make an eligibility determination ~~applicant for~~
37 ~~eligibility within 45 days after the date the application is~~
38 ~~signed for children under 6 years of age and within 60 days~~
39 after receipt of the signed application. If, at the time of the



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40 application, the applicant is requesting enrollment on the
41 developmental disabilities home and community-based services
42 Medicaid waiver program due to crisis, as described in paragraph
43 (5)(a), the agency must complete an eligibility determination
44 within 45 days after receipt of the signed application.

45 (a) If the agency determines additional documentation is
46 necessary to make a proper determination on an applicant's
47 eligibility, the agency may request the necessary additional
48 documentation from the applicant ~~the date the application is~~
49 signed for all other applicants.

50 (b) When necessary to definitively identify individual
51 conditions or needs, the agency ~~must shall~~ arrange for provide a
52 comprehensive assessment within the state of Florida.

53 (c) If the agency requests additional documentation from
54 the applicant or provides a comprehensive assessment, the
55 agency's eligibility determination must be completed within 90
56 days after receipt of the signed application ~~Only applicants~~
57 ~~whose domicile is in Florida are eligible for services.~~

58 (2) To be eligible for services under this chapter, the
59 agency's eligibility determination must find that the applicant
60 has met all procedural requirements and eligibility criteria
61 found in rule, which must include, but need not be limited to,
62 the requirement that the applicant have a developmental
63 disability and being domiciled in Florida. Information
64 accumulated by other agencies, including professional reports
65 and collateral data, ~~must shall~~ be considered in this process
66 when available.

67 ~~(2) In order to provide immediate services or crisis~~
68 ~~intervention to applicants, the agency shall arrange for~~



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69 ~~emergency eligibility determination, with a full eligibility~~
70 ~~review to be accomplished within 45 days of the emergency~~
71 ~~eligibility determination.~~

72 (3) The agency, or its designee, must ~~shall~~ notify each
73 applicant, in writing, of its eligibility determination
74 ~~decision~~. Any applicant or client determined by the agency to be
75 ineligible for services has the right to appeal this
76 determination decision pursuant to ss. 120.569 and 120.57.

77 (4) Before admission to an intermediate care facility for
78 individuals with intellectual disabilities and to ensure that
79 the setting is the least restrictive to meet the individual's
80 needs, the agency must authorize the admission pursuant to this
81 subsection. As part of the authorization, the agency, or its
82 designee, must conduct a comprehensive assessment that includes
83 medical necessity, level of care, and level of reimbursement ~~The~~
84 ~~agency shall assess the level of need and medical necessity for~~
85 ~~prospective residents of intermediate care facilities for the~~
86 ~~developmentally disabled. The agency may enter into an agreement~~
87 ~~with the Department of Elderly Affairs for its Comprehensive~~
88 ~~Assessment and Review for Long-Term-Care Services (CARES)~~
89 ~~program to conduct assessments to determine the level of need~~
90 ~~and medical necessity for long-term care services under this~~
91 ~~chapter. To the extent permissible under federal law, the~~
92 ~~assessments shall be funded under Title XIX of the Social~~
93 ~~Security Act.~~

94 (5) Except as provided in subsection (7), the agency must
95 shall assign any client seeking enrollment on the developmental
96 disabilities home and community-based services Medicaid Waiver
97 program that meets the level of care requirement for an



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98 intermediate care facility for individuals with intellectual
99 disabilities pursuant to 42 C.F.R. ss. 435.217(b) (1) and 440.150
100 to an appropriate enrollment category based on the criteria
101 outlined below, and must provide priority to clients waiting for
102 waiver services in the following order:

103 (a) Category 1, which includes clients deemed to be in
104 crisis as described in rule, must ~~shall~~ be given first priority
105 in moving from the pre-enrollment categories ~~waiting list~~ to the
106 waiver.

107 (b) Category 2, which includes clients individuals in the
108 pre-enrollment categories ~~on the waiting list~~ who are:

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

112 a. Transitioning out of the child welfare system into
113 permanency ~~at the finalization of an adoption, a reunification~~
114 ~~with family members, a permanent placement with a relative, or a~~
115 ~~guardianship with a nonrelative; or~~

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

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

121
122 For individuals who are at least 18 years but not yet 22
123 years of age and who are eligible under sub-subparagraph 1.b.,
124 the agency must ~~shall~~ provide waiver services, including
125 residential habilitation, and the community-based care lead
126 agency must ~~shall~~ fund room and board at the rate established in



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127 s. 409.145(3) and provide case management and related services
128 as defined in s. 409.986(3) (e). Individuals may receive both
129 waiver services and services under s. 39.6251. Services may not
130 duplicate services available through the Medicaid state plan.

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

133 1. Whose caregiver has a documented condition that is
134 expected to render the caregiver unable to provide care within
135 the next 12 months and for whom a caregiver is required but no
136 alternate caregiver is available;

137 2. At substantial risk of incarceration or court commitment
138 without supports;

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

142 4. Who are identified as ready for discharge within the
143 next year from a state mental health hospital or skilled nursing
144 facility and who require a caregiver but for whom no caregiver
145 is available or whose caregiver is unable to provide the care
146 needed.

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

151 (e) Category 5, which includes, but is not required to be
152 limited to, clients who are expected to graduate within the next
153 12 months from secondary school and need support to obtain a
154 meaningful day activity, maintain competitive employment, or
155 pursue an accredited program of postsecondary education to which



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156 they have been accepted.

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

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

163 (6) Within each enrollment category, the agency must
164 prioritize enrollment based on the time each client has been
165 assigned to any pre-enrollment category without interruption,
166 with the longest having the highest priority. A client that
167 resides in an institutional setting, including, but not limited
168 to, a penal institution, an intermediate care facility for the
169 developmentally disabled, mental health hospital, a nursing
170 home, or a forensic facility operated by the agency pursuant to
171 chapter 916, may not be assigned to a pre-enrollment category
172 ~~Within categories 3, 4, 5, 6, and 7, the agency shall maintain a~~
173 ~~waiting list of clients placed in the order of the date that the~~
174 ~~client is determined eligible for waiver services.~~

175 (7)~~(6)~~ The agency must ~~shall~~ allow an individual who meets
176 the eligibility requirements of subsection (2) ~~subsection (1)~~ to
177 receive home and community-based services in this state if the
178 individual's parent or legal guardian is an active-duty military
179 servicemember and if, at the time of the servicemember's
180 transfer to this state, the individual was receiving home and
181 community-based services in another state.

182 (8)~~(7)~~ The agency must ~~shall~~ allow an individual with a
183 diagnosis of Phelan-McDermid syndrome who meets the eligibility
184 requirements of subsection (2) ~~subsection (1)~~ to receive home



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185 and community-based services.

186 (9) Only a client may be eligible for services under the
187 developmental disabilities home and community-based services
188 waiver program. To receive services under the developmental
189 disabilities home and community-based services Medicaid waiver
190 program, there must be available funding pursuant to s.
191 393.0662, or through a legislative appropriation, and the client
192 must meet all of the following:

193 (a) The eligibility criteria in subsection (2), which must
194 be confirmed by the agency.

195 (b) Eligibility requirements for the Florida Medicaid
196 program under Title XIX of the Social Security Act, as amended,
197 or the Supplemental Security Income program.

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

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

204 (10)-(8) Agency action that selects individuals to receive
205 waiver services pursuant to this section does not establish a
206 right to a hearing or an administrative proceeding under chapter
207 120 for individuals remaining in the pre-enrollment categories
208 on the waiting list.

209 (11)-(9) The client, the client's guardian, or the client's
210 family must ensure that accurate, up-to-date contact information
211 is provided to the agency at all times. Notwithstanding s.
212 393.0651, the agency must ~~shall~~ send an annual letter requesting
213 updated information from the client, the client's guardian, or



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214 the client's family. The agency must ~~shall~~ remove from the pre-
215 enrollment categories ~~waiting list~~ any individual who cannot be
216 located using the contact information provided to the agency,
217 fails to meet eligibility requirements, or becomes domiciled
218 outside the state.

219 (12) (a) ~~(10) (a)~~ The agency must ~~shall~~ provide the following
220 information to all applicants or their parents, legal guardians,
221 or family members:

222 1. A brief overview of the vocational rehabilitation
223 services offered through the Division of Vocational
224 Rehabilitation of the Department of Education, including a
225 hyperlink or website address that provides access to the
226 application for such services;

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

231 3. A brief overview of the supplemental security income
232 benefits and social security disability income benefits
233 available under Title XVI of the Social Security Act, as
234 amended, including a hyperlink or website address that provides
235 access to the application for such benefits;

236 4. A statement indicating that the applicant's local public
237 school district may provide specialized instructional services,
238 including transition programs, for students with special
239 education needs;

240 5. A brief overview of programs and services funded through
241 the Florida Center for Students with Unique Abilities, including
242 contact information for each state-approved Florida



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272 to the parent, legal guardian, or family member of such client
273 applicant.

274 (13)~~(11)~~ The agency and the Agency for Health Care
275 Administration may adopt rules specifying application
276 procedures, criteria associated with the pre-enrollment ~~waiting~~
277 ~~list~~ categories, procedures for administering the pre-enrollment
278 categories ~~waiting list~~, including tools for prioritizing waiver
279 enrollment within categories, and eligibility criteria as needed
280 to administer this section.

281 Section 3. Section 393.0651, Florida Statutes, is amended
282 to read:

283 393.0651 Family or individual support plan.—The agency
284 shall provide directly or contract for the development of a
285 family support plan for children ages 3 to 18 years of age and
286 an individual support plan for each client. The client, if
287 competent, the client's parent or guardian, or, when
288 appropriate, the client advocate, shall be consulted in the
289 development of the plan and shall receive a copy of the plan.
290 Each plan must include the most appropriate, least restrictive,
291 and most cost-beneficial environment for accomplishment of the
292 objectives for client progress and a specification of all
293 services authorized. The plan must include provisions for the
294 most appropriate level of care for the client. Within the
295 specification of needs and services for each client, when
296 residential care is necessary, the agency shall move toward
297 placement of clients in residential facilities based within the
298 client's community. The ultimate goal of each plan, whenever
299 possible, shall be to enable the client to live a dignified life
300 in the least restrictive setting, be that in the home or in the



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301 community. ~~For children under 6 years of age, the~~ The family or
302 individual support plan must shall be developed within 60 days
303 after the agency determines the client eligible pursuant to s.
304 393.065(3) the 45-day application period as specified in s.
305 393.065(1); for all applicants 6 years of age or older, the
306 family or individual support plan shall be developed within the
307 60-day period as specified in that subsection.

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

310 (2) The family or individual support plan shall be
311 integrated with the individual education plan (IEP) for all
312 clients who are public school students entitled to a free
313 appropriate public education under the Individuals with
314 Disabilities Education Act, I.D.E.A., as amended. The family or
315 individual support plan and IEP shall be implemented to maximize
316 the attainment of educational and habilitation goals.

317 (a) If the IEP for a student enrolled in a public school
318 program indicates placement in a public or private residential
319 program is necessary to provide special education and related
320 services to a client, the local education agency shall provide
321 for the costs of that service in accordance with the
322 requirements of the Individuals with Disabilities Education Act,
323 I.D.E.A., as amended. This shall not preclude local education
324 agencies and the agency from sharing the residential service
325 costs of students who are clients and require residential
326 placement.

327 (b) For clients who are entering or exiting the school
328 system, an interdepartmental staffing team composed of
329 representatives of the agency and the local school system shall



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330 develop a written transitional living and training plan with the
331 participation of the client or with the parent or guardian of
332 the client, or the client advocate, as appropriate.

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

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

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

341 (b) The whereabouts of the parent or guardian cannot be
342 discovered; or

343 (c) The state is the only legal representative of the
344 client.

345
346 Such appointment shall not be construed to extend the powers of
347 the client advocate to include any of those powers delegated by
348 law to a legal guardian.

349 (5) The agency shall place a client in the most appropriate
350 and least restrictive, and cost-beneficial, residential facility
351 according to his or her individual support plan. The client, if
352 competent, the client's parent or guardian, or, when
353 appropriate, the client advocate, and the administrator of the
354 facility to which placement is proposed shall be consulted in
355 determining the appropriate placement for the client.

356 Considerations for placement shall be made in the following
357 order:

358 (a) Client's own home or the home of a family member or



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359 direct service provider.
360 (b) Foster care facility.
361 (c) Group home facility.
362 (d) Intermediate care facility for the developmentally
363 disabled.
364 (e) Other facilities licensed by the agency which offer
365 special programs for people with developmental disabilities.
366 (f) Developmental disabilities center.
367 (6) In developing a client's annual family or individual
368 support plan, the individual or family with the assistance of
369 the support planning team shall identify measurable objectives
370 for client progress and shall specify a time period expected for
371 achievement of each objective.
372 (7) The individual, family, and support coordinator shall
373 review progress in achieving the objectives specified in each
374 client's family or individual support plan, and shall revise the
375 plan annually, following consultation with the client, if
376 competent, or with the parent or guardian of the client, or,
377 when appropriate, the client advocate. The agency or designated
378 contractor shall annually report in writing to the client, if
379 competent, or to the parent or guardian of the client, or to the
380 client advocate, when appropriate, with respect to the client's
381 habilitative and medical progress.
382 (8) Any client, or any parent of a minor client, or
383 guardian, authorized guardian advocate, or client advocate for a
384 client, who is substantially affected by the client's initial
385 family or individual support plan, or the annual review thereof,
386 shall have the right to file a notice to challenge the decision
387 pursuant to ss. 120.569 and 120.57. Notice of such right to



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388 appeal shall be included in all support plans provided by the
389 agency.

390 Section 4. Subsection (1) of section 393.0655, Florida
391 Statutes, is amended to read:

392 393.0655 Screening of direct service providers.-

393 (1) MINIMUM STANDARDS.-The agency shall require level 2
394 employment screening pursuant to chapter 435 for direct service
395 providers who are unrelated to their clients, including support
396 coordinators, and managers and supervisors of residential
397 facilities or adult day training ~~comprehensive transitional~~
398 ~~education~~ programs licensed under this chapter and any other
399 person, including volunteers, who provide care or services, who
400 have access to a client's living areas, or who have access to a
401 client's funds or personal property. Background screening must
402 ~~shall~~ include employment history checks as provided in s.
403 435.03(1) and local criminal records checks through local law
404 enforcement agencies.

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

410 (b) Licensed physicians, nurses, or other professionals
411 licensed and regulated by the Department of Health are not
412 subject to background screening pursuant to this section if they
413 are providing a service that is within their scope of licensed
414 practice.

415 (c) A person selected by the family or the individual with
416 developmental disabilities and paid by the family or the



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417 individual to provide supports or services is not required to
418 have a background screening under this section.

419 (d) Persons 12 years of age or older, including family
420 members, residing with a direct services provider who provides
421 services to clients in his or her own place of residence are
422 subject to background screening; however, such persons who are
423 12 to 18 years of age shall be screened for delinquency records
424 only.

425 Section 5. Section 393.067, Florida Statutes, is amended to
426 read:

427 393.067 Facility licensure.—

428 (1) The agency shall provide through its licensing
429 authority and by rule license application procedures, provider
430 qualifications, facility and client care standards, requirements
431 for client records, requirements for staff qualifications and
432 training, and requirements for monitoring foster care
433 facilities, group home facilities, residential habilitation
434 centers, and adult day training ~~comprehensive transitional~~
435 ~~education~~ programs that serve agency clients.

436 (2) The agency shall conduct annual inspections and reviews
437 of facilities and adult day training programs licensed under
438 this section.

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

442 (4) The application shall be under oath and shall contain
443 the following:

444 (a) The name and address of the applicant, if an applicant
445 is an individual; if the applicant is a firm, partnership, or



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446 association, the name and address of each member thereof; if the
447 applicant is a corporation, its name and address and the name
448 and address of each director and each officer thereof; and the
449 name by which the facility or program is to be known.

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

452 (c) The name of the person or persons under whose
453 management or supervision the facility or adult day training
454 program will be conducted.

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

458 ~~(e) The number and location of the component centers or~~
459 ~~units which will compose the comprehensive transitional~~
460 ~~education program.~~

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

463 ~~(f)~~ ~~(g)~~ Information relating to the number, experience, and
464 training of the employees of the facility or adult day training
465 program.

466 ~~(g)~~ ~~(h)~~ Certification that the staff of the facility or
467 adult day training program will receive training to detect,
468 report, and prevent sexual abuse, abuse, neglect, exploitation,
469 and abandonment, as defined in ss. 39.01 and 415.102, of
470 residents and clients.

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

473 (5) As a prerequisite for issuance of an initial or renewal
474 license, the applicant, and any manager, supervisor, and staff



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475 member of the direct service provider of a facility or adult day
476 training program licensed under this section, must have
477 submitted to background screening as required under s. 393.0655.
478 A license may not be issued or renewed if the applicant or any
479 manager, supervisor, or staff member of the direct service
480 provider has a disqualifying offense revealed by ~~failed~~
481 background screenings ~~as~~ required under s. 393.0655. The agency
482 shall determine by rule the frequency of background screening.
483 The applicant shall submit with each initial or renewal
484 application a signed affidavit under penalty of perjury stating
485 that the applicant and any manager, supervisor, or staff member
486 of the direct service provider is in compliance with all
487 requirements for background screening.

488 (6) A facility or program ~~The~~ applicant shall furnish
489 satisfactory proof of financial ability to operate and conduct
490 the facility or program in accordance with the requirements of
491 this chapter and adopted rules.

492 (7) The agency shall adopt rules establishing minimum
493 standards for facilities and adult day training programs
494 licensed under this section, including rules requiring
495 facilities and adult day training programs to train staff to
496 detect, report, and prevent sexual abuse, abuse, neglect,
497 exploitation, and abandonment, as defined in ss. 39.01 and
498 415.102, of residents and clients, minimum standards of quality
499 and adequacy of client care, incident reporting requirements,
500 and uniform firesafety standards established by the State Fire
501 Marshal which are appropriate to the size of the facility or
502 adult day training ~~of the component centers or units of the~~
503 program.



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504 (8) The agency, after consultation with the Division of
505 Emergency Management, shall adopt rules for foster care
506 facilities, group home facilities, ~~and~~ residential habilitation
507 centers, and adult day training programs which establish minimum
508 standards for the preparation and annual update of a
509 comprehensive emergency management plan. At a minimum, the rules
510 must provide for plan components that address emergency
511 evacuation transportation; adequate sheltering arrangements;
512 postdisaster activities, including emergency power, food, and
513 water; postdisaster transportation; supplies; staffing;
514 emergency equipment; individual identification of residents and
515 transfer of records; and responding to family inquiries. The
516 comprehensive emergency management plan for all facilities and
517 adult day training ~~comprehensive transitional education~~ programs
518 ~~and for homes~~ serving individuals who have a complex medical
519 condition ~~conditions~~ is subject to review and approval by the
520 local emergency management agency. During its review, the local
521 emergency management agency shall ensure that the agency and the
522 Division of Emergency Management, at a minimum, are given the
523 opportunity to review the plan. Also, appropriate volunteer
524 organizations must be given the opportunity to review the plan.
525 The local emergency management agency shall complete its review
526 within 60 days and either approve the plan or advise the
527 facility or program of necessary revisions.

528 (9) The agency may conduct unannounced inspections to
529 determine compliance by foster care facilities, group home
530 facilities, residential habilitation centers, and adult day
531 training ~~comprehensive transitional education~~ programs with the
532 applicable provisions of this chapter and the rules adopted



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533 pursuant hereto, including the rules adopted for training staff
534 of a facility or an adult day training a program to detect,
535 report, and prevent sexual abuse, abuse, neglect, exploitation,
536 and abandonment, as defined in ss. 39.01 and 415.102, of
537 residents and clients. The facility or adult day training
538 program shall make copies of inspection reports available to the
539 public upon request.

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

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

549 (12) The agency shall establish, for the purpose of control
550 of licensure costs, a uniform management information system and
551 a uniform reporting system with uniform definitions and
552 reporting categories.

553 (13) Facilities and adult day training programs licensed
554 under ~~pursuant to~~ this section shall adhere to all rights
555 specified in s. 393.13, ~~including those enumerated in s.~~
556 ~~393.13(4).~~

557 (14) The agency may not authorize funds or services to an
558 unlicensed facility or adult day training program that requires
559 a license under this section ~~may not receive state funds.~~ A
560 license for the operation of a facility or an adult day training
561 program may ~~shall~~ not be renewed if the licensee has any



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562 outstanding fines assessed pursuant to this chapter wherein
563 final adjudication of such fines has been entered.

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

567 Section 6. Section 393.0673, Florida Statutes, is amended
568 to read:

569 393.0673 Denial, suspension, or revocation of license;
570 moratorium on admissions; administrative fines; procedures.—

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

576 (a) The licensee has:

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

579 2. Had prior action taken against it under the Medicaid or
580 Medicare program; or

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

583 (b) The Department of Children and Families has verified
584 that the licensee is responsible for the abuse, neglect, or
585 abandonment of a child or the abuse, neglect, or exploitation of
586 a vulnerable adult.

587 (2) For purposes of disciplinary action under this section
588 for verified findings of abuse, neglect, abandonment, or
589 exploitation of a child or vulnerable adult, the licensee is
590 responsible not only for administration of the facilities in



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591 compliance with the standards set out by statute and
592 administrative rule, but is ultimately responsible for the care
593 and supervision of the clients in the facility or the
594 participants of the program.

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

597 (b) A licensee is subject to disciplinary action for an
598 employee's lapse in care or supervision of the clients at the
599 facility or the participants of the program in which a verified
600 finding of abuse, neglect, abandonment, or exploitation
601 occurred.

602 (c) Remedial action taken by the licensee does not affect
603 the agency's ability to impose disciplinary action for the
604 underlying violation.

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

607 (a) The applicant has:

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

610 2. Had prior action taken against it under the Medicaid or
611 Medicare program;

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

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

618 (b) The Department of Children and Families has verified
619 that the applicant is responsible for the abuse, neglect, or



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620 abandonment of a child or the abuse, neglect, or exploitation of
621 a vulnerable adult; or

622 (c) The agency has determined that there is clear and
623 convincing evidence that the applicant is unqualified for a
624 license because of a lack of good moral character. For purposes
625 of this paragraph, the term "good moral character" means a
626 personal history of honesty, fairness, and respect for the
627 rights of others and for the laws of this state and the Federal
628 Government.

629 (4)(3) All hearings must ~~shall~~ be held within the county in
630 which the licensee or applicant operates or applies for a
631 license to operate a facility or adult day training program as
632 defined herein.

633 (5)(4) The agency, as a part of any final order issued by
634 it under this chapter, may impose such fine as it deems proper,
635 except that such fine may not exceed \$1,000 for each violation.
636 Each day a violation of this chapter occurs constitutes a
637 separate violation and is subject to a separate fine, but in no
638 event may the aggregate amount of any fine exceed \$10,000. Fines
639 paid by any facility licensee under ~~the provisions of~~ this
640 subsection shall be deposited in the Health Care Trust Fund and
641 expended as provided in s. 400.063.

642 (6)(5) The agency may issue an order immediately suspending
643 or revoking a license when it determines that any condition of
644 ~~in~~ the facility or adult day training program presents a danger
645 to the health, safety, or welfare of the residents in the
646 facility or the program participants.

647 (7)(6) The agency may impose an immediate moratorium on
648 admissions to any facility or service authorizations to a



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649 facility or adult day training program when the agency
650 determines that any condition of ~~in~~ the facility or adult day
651 training program presents a threat to the health, safety, or
652 welfare of the residents in the facility or the program
653 participants.

654 (8) ~~(7)~~ The agency shall establish by rule criteria for
655 evaluating the severity of violations and for determining the
656 amount of fines imposed.

657 Section 7. Subsection (1) of section 393.0678, Florida
658 Statutes, is amended to read:

659 393.0678 Receivership proceedings.—

660 (1) The agency may petition a court of competent
661 jurisdiction for the appointment of a receiver for ~~a~~
662 ~~comprehensive transitional education program~~, a residential
663 habilitation center~~,~~ or a group home facility owned and operated
664 by a corporation or partnership when any of the following
665 conditions exist:

666 (a) Any person is operating a facility without a license
667 and refuses to make application for a license as required by s.
668 393.067.

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

674 (c) The agency determines that conditions exist in the
675 facility which present an imminent danger to the health, safety,
676 or welfare of the residents of the facility or which present a
677 substantial probability that death or serious physical harm



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678 would result therefrom. Whenever possible, the agency shall
679 facilitate the continued operation of the program.

680 (d) The licensee cannot meet its financial obligations to
681 provide food, shelter, care, and utilities. Evidence such as the
682 issuance of bad checks or the accumulation of delinquent bills
683 for such items as personnel salaries, food, drugs, or utilities
684 constitutes prima facie evidence that the ownership of the
685 facility lacks the financial ability to operate the home in
686 accordance with the requirements of this chapter and all rules
687 adopted ~~promulgated~~ thereunder.

688 Section 8. Subsection (2) of section 393.135, Florida
689 Statutes, is amended to read:

690 393.135 Sexual misconduct prohibited; reporting required;
691 penalties.—

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

694 (a) Resides in a residential facility, including any
695 ~~comprehensive transitional education program~~, developmental
696 disabilities center, foster care facility, group home facility,
697 intermediate care facility for the developmentally disabled, or
698 residential habilitation center; or

699 (b) Is eligible to receive services from the agency under
700 this chapter,

701
702 commits a felony of the second degree, punishable as
703 provided in s. 775.082, s. 775.083, or s. 775.084. A covered
704 person may be found guilty of violating this subsection without
705 having committed the crime of sexual battery.

706 Section 9. Section 393.18, Florida Statutes, is repealed.



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707 Section 10. Paragraph (c) of subsection (3) of section
708 394.875, Florida Statutes, is amended to read:

709 394.875 Crisis stabilization units, residential treatment
710 facilities, and residential treatment centers for children and
711 adolescents; authorized services; license required.-

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

714 ~~(c) Comprehensive transitional education programs licensed~~
715 ~~under s. 393.067.~~

716 Section 11. Paragraph (b) of subsection (1) of section
717 383.141, Florida Statutes, is amended to read:

718 383.141 Prenatally diagnosed conditions; patient to be
719 provided information; definitions; information clearinghouse;
720 advisory council.-

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

722 (b) "Developmental disability" includes Down syndrome and
723 other developmental disabilities defined by s. 393.063 ~~s.~~
724 ~~393.063(12)~~.

725 Section 12. Subsection (1) of section 400.063, Florida
726 Statutes, is amended to read:

727 400.063 Resident protection.-

728 (1) The Health Care Trust Fund shall be used for the
729 purpose of collecting and disbursing funds generated from the
730 license fees and administrative fines as provided for in ss.
731 393.0673(5) ~~ss. 393.0673(4)~~, 400.062(3), 400.121(2), and
732 400.23(8). Such funds shall be for the sole purpose of paying
733 for the appropriate alternate placement, care, and treatment of
734 residents who are removed from a facility licensed under this
735 part or a facility specified in s. 393.0678(1) in which the



736 agency determines that existing conditions or practices
737 constitute an immediate danger to the health, safety, or
738 security of the residents. If the agency determines that it is
739 in the best interest of the health, safety, or security of the
740 residents to provide for an orderly removal of the residents
741 from the facility, the agency may utilize such funds to maintain
742 and care for the residents in the facility pending removal and
743 alternative placement. The maintenance and care of the residents
744 shall be under the direction and control of a receiver appointed
745 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may
746 be expended in an emergency upon a filing of a petition for a
747 receiver, upon the declaration of a state of local emergency
748 pursuant to s. 252.38(3)(a)5., or upon a duly authorized local
749 order of evacuation of a facility by emergency personnel to
750 protect the health and safety of the residents.

751 Section 13. Paragraph (d) of subsection (2) of section
752 1002.394, Florida Statutes, is amended to read:

753 1002.394 The Family Empowerment Scholarship Program.—

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

755 (d) "Disability" means, for a 3- or 4-year-old child or for
756 a student in kindergarten to grade 12, autism spectrum disorder,
757 as defined in the Diagnostic and Statistical Manual of Mental
758 Disorders, Fifth Edition, published by the American Psychiatric
759 Association; cerebral palsy, as defined in s. 393.063; Down
760 syndrome, as defined in s. 393.063; an intellectual disability,
761 as defined in s. 393.063; a speech impairment; a language
762 impairment; an orthopedic impairment; any ~~an~~ other health
763 impairment; an emotional or a behavioral disability; a specific
764 learning disability, including, but not limited to, dyslexia,



765 dyscalculia, or developmental aphasia; Phelan-McDermid syndrome,
766 as defined in s. 393.063; Prader-Willi syndrome, as defined in
767 s. 393.063; spina bifida, as defined in s. 393.063; being a
768 high-risk child, as defined in s. 393.063(22)(a) ~~s.~~
769 ~~393.063(23)(a)~~; muscular dystrophy; Williams syndrome; rare
770 diseases which affect patient populations of fewer than 200,000
771 individuals in the United States, as defined by the National
772 Organization for Rare Disorders; anaphylaxis; a hearing
773 impairment, including deafness; a visual impairment, including
774 blindness; traumatic brain injury; hospital or homebound; or
775 identification as dual sensory impaired, as defined by rules of
776 the State Board of Education and evidenced by reports from local
777 school districts. The term "hospital or homebound" includes a
778 student who has a medically diagnosed physical or psychiatric
779 condition or illness, as defined by the state board in rule, and
780 who is confined to the home or hospital for more than 6 months.

781 Section 14. This act shall take effect October 1, 2024.

782 ===== T I T L E A M E N D M E N T =====

783 And the title is amended as follows:

784 Delete everything before the enacting clause
785 and insert:

786 A bill to be entitled
787 An act relating to the Agency for Persons with
788 Disabilities; amending s. 393.063, F.S.; revising and
789 defining terms; amending s. 393.065, F.S.; requiring
790 the Agency for Persons with Disabilities to make
791 certain eligibility determinations within specified
792 time periods; providing eligibility requirements for
793 applicants; requiring the agency to authorize



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794 admission into an intermediate care facility for
795 certain individuals; removing a provision requiring
796 the agency to perform specified assessments to
797 determine level of need and medical necessity for
798 intermediate care facilities; providing requirements
799 for the home and community-based services Medicaid
800 waiver; amending s. 393.0651; conforming provisions to
801 changes made by the act; amending s. 393.0655, F.S.;
802 revising background screening requirements for certain
803 direct service providers; amending s. 393.067, F.S.;
804 requiring the licensure of adult day training
805 programs; conforming related application and licensure
806 provisions to changes made by the act; providing for
807 comprehensive emergency management plans of adult day
808 training programs; providing for inspections of adult
809 day training programs; requiring adult day training
810 programs to adhere to specified rights; conforming
811 provisions to changes made by the act; amending s.
812 393.0673, F.S.; revising provisions related to
813 disciplinary action against certain licensees to
814 include licensed adult day training programs;
815 providing that for purposes of disciplinary action for
816 certain violations, a licensee is ultimately
817 responsible for the care and supervision of clients in
818 its facility or participants of the program; providing
819 construction; revising grounds for denial of a
820 licensure application; defining the term "good moral
821 character"; authorizing the agency to immediately
822 suspend or revoke the license of adult day training



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823 programs under certain circumstances; authorizing the
824 agency to impose an immediate moratorium on service
825 authorizations to licensed facilities and adult day
826 training programs under certain circumstances;
827 amending s. 393.0678, F.S.; conforming provisions to
828 changes made by the act; making a technical
829 correction; amending s. 393.135, F.S.; conforming
830 provisions to changes made by the act; repealing s.
831 393.18, F.S., relating to comprehensive transitional
832 education programs; amending s. 394.875, F.S.;
833 conforming a provision to changes made by the act;
834 amending ss. 383.141, 400.063, and 1002.394, F.S.;
835 conforming cross-references; providing an effective
836 date.