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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RCS | . | |
| 03/01/2012 | . | |
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The Committee on Budget Subcommittee on Health and Human Services Appropriations (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 393.062, Florida Statutes, is amended to read:

393.062 Legislative findings and declaration of intent.—

(1) The Legislature finds ~~and declares~~ that existing state programs for the treatment of individuals with developmental disabilities, which often unnecessarily place individuals ~~clients~~ in institutions, are unreasonably costly, are ineffective in bringing the individual ~~client~~ to his or her



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13 maximum potential, and are in fact debilitating to many
14 individuals ~~clients~~. A redirection in state treatment programs
15 ~~for individuals with developmental disabilities~~ is therefore
16 necessary if any significant amelioration of the problems faced
17 by such individuals is ~~ever~~ to take place. Such redirection
18 should place primary emphasis on programs that prevent or reduce
19 the severity of developmental disabilities. Further, ~~the~~
20 ~~greatest~~ priority should ~~shall~~ be given to the development and
21 implementation of community-based services for that will enable
22 individuals with developmental disabilities which will protect
23 their health, safety, and welfare, and enable such individuals
24 to achieve their greatest potential for independent and
25 productive living, ~~enable them~~ to live in their own homes or in
26 residences located in their own communities, and ~~permit them~~ to
27 be diverted or moved ~~removed~~ from unnecessary institutional
28 placements. This goal cannot be met without ensuring the
29 availability of community residential opportunities in the
30 residential areas of this state. The Legislature, therefore,
31 declares that individuals ~~all persons with developmental~~
32 ~~disabilities~~ who live in licensed community homes shall have a
33 family living environment comparable to that of other state
34 residents ~~Floridians~~ and that such homes must ~~residences shall~~
35 be considered and treated as the ~~a~~ functional equivalent of a
36 family unit and not as an institution, business, or boarding
37 home. The Legislature further declares that, ~~in developing~~
38 ~~community-based programs and services for individuals with~~
39 ~~developmental disabilities~~, private businesses, not-for-profit
40 corporations, units of local government, and other organizations
41 capable of providing needed services ~~to clients~~ in a cost-



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42 efficient manner ~~shall~~ be given preference in lieu of operation
43 of programs directly by state agencies. Finally, it is the
44 intent of the Legislature that ~~all~~ caretakers who are unrelated
45 to individuals with developmental disabilities receiving care
46 ~~shall~~ be of good moral character.

47 (2) The Legislature finds that in order to maximize the
48 delivery of services to individuals in the community who have
49 developmental disabilities and remain within appropriated funds,
50 service delivery must blend natural supports, community
51 resources, and state funds. The Legislature also finds that,
52 given the traditional role of state government in ensuring the
53 health, safety, and welfare of state residents, and the intent
54 that waiver funds be used to avoid institutionalization, state
55 funds, including waiver funds, appropriated to the agency must
56 be reserved and prioritized for those services needed to ensure
57 the health, safety, and welfare of individuals who have
58 developmental disabilities in noninstitutional settings. It is
59 therefore the intent of the Legislature that the agency develop
60 sound fiscal strategies that allow the agency to predict,
61 control, manage, and operate within available funding as
62 provided in the General Appropriations Act in order to ensure
63 that state funds are available for health, safety, and welfare,
64 to avoid institutionalization, and to maximize the number of
65 individuals who have developmental disabilities who receive
66 services. It is further the intent of the Legislature that the
67 agency provide services for individuals residing in
68 developmental disability centers that promote the individual's
69 health, safety, and welfare and enhance their quality of life.
70 Finally, the Legislature intends that the agency continue the



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71 tradition of involving families, stakeholders, and other
72 interested parties as it recasts its role as a collaborative
73 partner in the larger context of family and community-supported
74 services and develops new opportunities and supports for
75 individuals with developmental disabilities.

76 Section 2. Section 393.063, Florida Statutes, is reordered
77 and amended to read:

78 393.063 Definitions.—As used in ~~For the purposes of~~ this
79 chapter, the term:

80 (1) "Agency" means the Agency for Persons with
81 Disabilities.

82 (2) "Adult day services" means services that are provided
83 in a nonresidential setting, separate from the home or facility
84 in which the individual resides, unless he or she resides in a
85 planned residential community as defined in s. 419.001(1), and
86 that are intended to support the participation of individuals in
87 meaningful activities that do not require formal training, which
88 may include a variety of activities, including social
89 activities.

90 ~~(3)~~(2) "Adult day training" means training that is
91 conducted ~~services which take place~~ in a nonresidential setting,
92 separate from the home or facility in which the individual
93 ~~client~~ resides, unless he or she resides in a planned
94 residential community as defined in s. 419.001(1)(d); are
95 intended to support the individual's participation of clients in
96 daily, meaningful, and valued routines of the community; and may
97 include work-like settings that do not meet the definition of
98 supported employment.

99 (4)~~(3)~~ "Autism" means a pervasive, neurologically based



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100 developmental disability of extended duration which causes
101 severe learning, communication, and behavior disorders and which
102 has an ~~with~~ age of onset during infancy or childhood.

103 Individuals who have ~~with~~ autism exhibit impairment in
104 reciprocal social interaction, impairment in verbal and
105 nonverbal communication and imaginative ability, and a markedly
106 restricted repertoire of activities and interests.

107 (5)~~(4)~~ "Cerebral palsy" means a group of disabling symptoms
108 of extended duration which results from damage to the developing
109 brain which ~~that~~ may occur before, during, or after birth and
110 which ~~that~~ results in the loss or impairment of control over
111 voluntary muscles. The term ~~For the purposes of this definition,~~
112 ~~cerebral palsy~~ does not include those symptoms or impairments
113 resulting solely from a stroke.

114 (6)~~(5)~~ "Client" means an individual ~~any person~~ determined
115 eligible by the agency for services under this chapter.

116 (7)~~(6)~~ "Client advocate" means a friend or relative of an
117 individual ~~the client~~, or ~~of~~ the individual's ~~client's~~ immediate
118 family, who advocates for the individual's best interests ~~of the~~
119 ~~client~~ in any proceedings under this chapter in which the
120 individual ~~client~~ or his or her family has the right or duty to
121 participate.

122 (8)~~(7)~~ "Comprehensive assessment" means the process used to
123 determine eligibility for services under this chapter.

124 (9)~~(8)~~ "Comprehensive transitional education program" means
125 the program established under ~~in~~ s. 393.18.

126 (11)~~(9)~~ "Developmental disability" means a disorder or
127 syndrome that is attributable to retardation, cerebral palsy,
128 autism, spina bifida, Down syndrome, or Prader-Willi syndrome;



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129 that manifests before the age of 18; and that constitutes a
130 substantial handicap that can reasonably be expected to continue
131 indefinitely.

132 (10) "Developmental disabilities center" means a state-
133 owned and state-operated facility, formerly known as a "Sunland
134 Center," providing for the care, habilitation, and
135 rehabilitation of individuals who have ~~clients with~~
136 developmental disabilities.

137 ~~(12)~~ ~~(11)~~ "Direct service provider" means a person, 18 years
138 of age or older, who has direct face-to-face contact with an
139 individual ~~a client~~ while providing services to that individual
140 ~~the client~~ or who has access to his or her ~~a client's~~ living
141 areas, ~~or to a client's~~ funds, or personal property.

142 ~~(12)~~ "Domicile" ~~means the place where a client legally~~
143 ~~resides, which place is his or her permanent home. Domicile may~~
144 ~~be established as provided in s. 222.17. Domicile may not be~~
145 ~~established in Florida by a minor who has no parent domiciled in~~
146 ~~Florida, or by a minor who has no legal guardian domiciled in~~
147 ~~Florida, or by any alien not classified as a resident alien.~~

148 (13) "Down syndrome" means a disorder caused by the
149 presence of an extra chromosome 21.

150 (14) "Express and informed consent" means consent
151 voluntarily given in writing with sufficient knowledge and
152 comprehension of the subject matter to enable the person giving
153 consent to make a knowing decision without any element of force,
154 fraud, deceit, duress, or other form of constraint or coercion.

155 (15) "Family care program" means the program established
156 under ~~in~~ s. 393.068.

157 (16) "Foster care facility" means a residential facility



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158 licensed under this chapter which provides a family living
159 environment and includes ~~including~~ supervision and care
160 necessary to meet the physical, emotional, and social needs of
161 its residents. The capacity of such a facility may not be more
162 than three residents.

163 (17) "Group home facility" means a residential facility
164 licensed under this chapter which provides a family living
165 environment and includes ~~including~~ supervision and care
166 necessary to meet the physical, emotional, and social needs of
167 its residents. The capacity of such a facility must ~~shall~~ be at
168 least four 4 but not more than 15 residents.

169 (18) "Guardian advocate" means a person appointed by a
170 written order of the court to represent an individual who has a
171 ~~person with~~ developmental disability ~~disabilities~~ under s.
172 393.12.

173 (19) "Habilitation" means the process by which an
174 individual who has a developmental disability ~~a client~~ is
175 assisted to acquire and maintain those life skills that ~~which~~
176 enable the individual ~~client~~ to cope more effectively with the
177 demands of his or her condition and environment and to raise the
178 level of his or her physical, mental, and social efficiency. It
179 includes, but is not limited to, programs of formal structured
180 education and treatment.

181 (20) "High-risk child" means, for the purposes of this
182 chapter, a child from 3 to 5 years of age who has ~~with~~ one or
183 more of the following characteristics:

184 (a) A developmental delay in cognition, language, or
185 physical development.

186 (b) A child surviving a catastrophic infectious or



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187 traumatic illness known to be associated with developmental
188 delay, if ~~when~~ funds are specifically appropriated.

189 (c) A child who has ~~with~~ a parent or guardian who has ~~with~~
190 developmental disabilities and ~~who~~ requires assistance in
191 meeting the child's developmental needs.

192 (d) A child who has a physical or genetic anomaly
193 associated with developmental disability.

194 (21) "Intermediate care facility for the developmentally
195 disabled" or "ICF/DD" means a residential facility licensed and
196 certified under ~~pursuant to~~ part VIII of chapter 400.

197 (22) "Medical/dental services" means medically necessary
198 services that ~~which~~ are provided or ordered for an individual a
199 ~~client~~ by a person licensed under chapter 458, chapter 459, or
200 chapter 466. Such services may include, but are not limited to,
201 prescription drugs, specialized therapies, nursing supervision,
202 hospitalization, dietary services, prosthetic devices, surgery,
203 specialized equipment and supplies, adaptive equipment, and
204 other services as required to prevent or alleviate a medical or
205 dental condition.

206 (23) "Nonwaiver resources" means supports or services that
207 may be obtained through private insurance, the Medicaid state
208 plan, nonprofit organizations, charitable donations from private
209 businesses, other government programs, family, natural supports,
210 community resources, and any other source other than a waiver.

211 (24) ~~(23)~~ "Personal care services" means individual
212 assistance with or supervision of essential activities of daily
213 living for self-care, including ambulation, bathing, dressing,
214 eating, grooming, and toileting, and other similar services that
215 are incidental to the care furnished and are essential, and that



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216 are provided in the amount, duration, frequency, intensity, and
217 scope determined by the agency to be necessary for an
218 individual's to the health, safety, and welfare and to avoid
219 institutionalization of the client when there is no one else
220 available or able to perform those services.

221 (25)~~(24)~~ "Prader-Willi syndrome" means an inherited
222 condition typified by neonatal hypotonia with failure to thrive,
223 hyperphagia or an excessive drive to eat which leads to obesity
224 usually at 18 to 36 months of age, mild to moderate mental
225 retardation, hypogonadism, short stature, mild facial
226 dysmorphism, and a characteristic neurobehavior.

227 (26)~~(25)~~ "Relative" means a person ~~an individual~~ who is
228 connected by affinity or consanguinity to an individual ~~the~~
229 ~~client~~ and who is 18 years of age or older.

230 (27)~~(26)~~ "Resident" means an individual who has a ~~any~~
231 ~~person with~~ developmental disability and who resides
232 ~~disabilities residing~~ at a residential facility, regardless of
233 whether he or she has been determined eligible for agency
234 services ~~or not such person is a client of the agency.~~

235 (28)~~(27)~~ "Residential facility" means a facility providing
236 room and board and personal care for individuals who have
237 ~~persons with~~ developmental disabilities.

238 (29)~~(28)~~ "Residential habilitation" means supervision and
239 training in ~~with~~ the acquisition, retention, or improvement in
240 skills related to activities of daily living, such as personal
241 hygiene skills, homemaking skills, and the social and adaptive
242 skills necessary to enable the individual to reside in the
243 community.

244 (30)~~(29)~~ "Residential habilitation center" means a



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245 community residential facility licensed under this chapter which
246 provides habilitation services. The capacity of such a facility
247 may shall not be fewer than nine residents. After October 1,
248 1989, new residential habilitation centers may not be licensed
249 and the licensed capacity for any existing residential
250 habilitation center may not be increased.

251 (31)~~(30)~~ "Respite service" means appropriate, short-term,
252 temporary care that is provided to an individual who has a
253 ~~person with~~ developmental disability in order ~~disabilities~~ to
254 meet the planned or emergency needs of the individual ~~person~~ or
255 the family or other direct service provider.

256 (32)~~(31)~~ "Restraint" means a physical device, method, or
257 drug used to control dangerous behavior.

258 (a) A physical restraint is any manual method or physical
259 or mechanical device, material, or equipment attached or
260 adjacent to the individual's body so that he or she cannot
261 easily remove the restraint and which restricts freedom of
262 movement or normal access to one's body.

263 (b) A drug used as a restraint is a medication used to
264 control the individual's ~~person's~~ behavior or to restrict his or
265 her freedom of movement and is not a standard treatment for the
266 individual's ~~person's~~ medical or psychiatric condition.

267 Physically holding an individual ~~a person~~ during a procedure to
268 forcibly administer psychotropic medication is a physical
269 restraint.

270 (c) Restraint does not include physical devices, such as
271 orthopedically prescribed appliances, surgical dressings and
272 bandages, supportive body bands, seatbelts or wheelchair tie-
273 downs, or other physical holding when necessary for routine



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274 physical examinations and tests; for purposes of orthopedic,
275 surgical, or other similar medical treatment; when used to
276 provide support for the achievement of functional body position
277 or proper balance; ~~or~~ when used to protect an individual ~~a~~
278 ~~person~~ from falling out of bed or a wheelchair; or when used for
279 safety during transportation.

280 (33)~~(32)~~ "Retardation" means significantly subaverage
281 general intellectual functioning existing concurrently with
282 deficits in adaptive behavior which manifest ~~that manifests~~
283 before the age of 18 and can reasonably be expected to continue
284 indefinitely. As used in this subsection, the term:

285 (a) "Significantly subaverage general intellectual
286 functioning," ~~for the purpose of this definition,~~ means
287 performance that ~~which~~ is two or more standard deviations from
288 the mean score on a standardized intelligence test specified in
289 the rules of the agency.

290 (b) "Adaptive behavior," ~~for the purpose of this~~
291 ~~definition,~~ means the effectiveness or degree with which an
292 individual meets the standards of personal independence and
293 social responsibility expected of his or her age, cultural
294 group, and community.

295 (34)~~(33)~~ "Seclusion" means the involuntary isolation of an
296 individual ~~a person~~ in a room or area from which the individual
297 ~~person~~ is prevented from leaving. The prevention may be by
298 physical barrier or by a staff member who is acting in a manner,
299 or who is physically situated, so as to prevent the individual
300 ~~person~~ from leaving the room or area. For the purposes of this
301 chapter, the term does not mean isolation due to the
302 individual's medical condition or symptoms ~~of the person.~~



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303 ~~(35)~~~~(34)~~ "Self-determination" means an individual's freedom
304 to exercise the same rights as all other citizens, authority to
305 exercise control over funds needed for one's own support,
306 including prioritizing those ~~these~~ funds when necessary,
307 responsibility for the wise use of public funds, and self-
308 advocacy to speak and advocate for oneself in order to gain
309 independence and ensure that individuals who have ~~with~~ a
310 developmental disability are treated equally.

311 ~~(36)~~~~(35)~~ "Specialized therapies" means those treatments or
312 activities prescribed by and provided by an appropriately
313 trained, licensed, or certified professional or staff person and
314 may include, but are not limited to, physical therapy, speech
315 therapy, respiratory therapy, occupational therapy, behavior
316 therapy, physical management services, and related specialized
317 equipment and supplies.

318 ~~(37)~~~~(36)~~ "Spina bifida" means an individual who has been
319 given, ~~for purposes of this chapter,~~ a person with a medical
320 diagnosis of spina bifida cystica or myelomeningocele.

321 ~~(38)~~~~(37)~~ "Support coordinator" means a person who is
322 contracting with ~~designated by~~ the agency to assist individuals
323 and families in identifying their capacities, needs, and
324 resources, as well as finding and gaining access to necessary
325 supports and services; assisting with locating or developing
326 employment opportunities; coordinating the delivery of supports
327 and services; advocating on behalf of the individual and family;
328 maintaining relevant records; and monitoring and evaluating the
329 delivery of supports and services to determine the extent to
330 which they meet the needs ~~and expectations~~ identified by the
331 individual, family, and others who participated in the



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332 development of the support plan.

333 ~~(39)~~~~(38)~~ "Supported employment" means employment located or
334 provided in an integrated work setting, with earnings paid on a
335 commensurate wage basis, and for which continued support is
336 needed for job maintenance.

337 ~~(40)~~~~(39)~~ "Supported living" means a category of
338 individually determined services designed and coordinated in
339 ~~such~~ a manner that provides ~~as to provide~~ assistance to adults
340 ~~adult clients~~ who require ongoing supports to live as
341 independently as possible in their own homes, to be integrated
342 into the community, and to participate in community life to the
343 fullest extent possible.

344 ~~(41)~~~~(40)~~ "Training" means a planned approach to assisting
345 an individual ~~a client~~ to attain or maintain his or her maximum
346 potential and includes services ranging from sensory stimulation
347 to instruction in skills for independent living and employment.

348 ~~(42)~~~~(41)~~ "Treatment" means the prevention, amelioration, or
349 cure of an individual's ~~a client's~~ physical and mental
350 disabilities or illnesses.

351 (43) "Waiver" means a federally approved Medicaid waiver
352 program, including, but not limited to, the Developmental
353 Disabilities Home and Community-Based Services Waivers Tiers 1-
354 4, the Developmental Disabilities Individual Budget Waiver, and
355 the Consumer-Directed Care Plus Program, authorized pursuant to
356 s. 409.906 and administered by the agency to provide home and
357 community-based services to individuals who have developmental
358 disabilities.

359 Section 3. Subsections (1) and (6) of section 393.065,
360 Florida Statutes, are amended to read:



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361 393.065 Application and eligibility determination.-

362 (1) Application for services shall be made, in writing, to
363 the agency, ~~in~~ the service area in which the applicant resides.
364 The agency shall review each applicant for eligibility within 45
365 days after the date the application is signed for children under
366 6 years of age and within 60 days after the date the application
367 is signed for all other applicants. If ~~When~~ necessary to
368 definitively identify individual conditions or needs, the agency
369 shall provide a comprehensive assessment. Eligibility is limited
370 to United States citizens and to qualified noncitizens who meet
371 the criteria provided in s. 414.095(3), and who have established
372 domicile in Florida pursuant to s. 222.17 or are otherwise
373 determined to be legal residents of this state. ~~Only applicants~~
374 ~~whose domicile is in Florida are eligible for services.~~
375 Information accumulated by other agencies, including
376 professional reports and collateral data, shall be considered if
377 ~~in this process when~~ available.

378 (6) The individual, or the individual's elient, ~~the~~
379 ~~elient's~~ guardian, ~~or the elient's~~ family, must ensure that
380 accurate, up-to-date contact information is provided to the
381 agency at all times. The agency shall remove from the wait list
382 an any individual who cannot be located using the contact
383 information provided to the agency, fails to meet eligibility
384 requirements, or no longer qualifies as a legal resident of this
385 state becomes domiciled outside the state.

386 Section 4. Section 393.066, Florida Statutes, is amended to
387 read:

388 393.066 Community services and treatment.-

389 (1) The agency shall plan, develop, organize, and implement



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390 its programs of services and treatment for individuals who have
391 ~~persons with~~ developmental disabilities in order to assist them
392 in living ~~allow clients to live~~ as independently as possible in
393 their own homes or communities, to support them in maximizing
394 their independence using innovative, effective, efficient, and
395 sustainable solutions, and to avoid institutionalization and to
396 ~~achieve productive lives as close to normal as possible. All~~
397 ~~elements of community-based services shall be made available,~~
398 ~~and eligibility for these services shall be consistent across~~
399 ~~the state.~~

400 (2) ~~All~~ Services that are not available through nonwaiver
401 resources or that are not donated ~~needed~~ shall be purchased
402 instead of provided directly by the agency if, ~~when~~ such
403 arrangement is more cost-efficient than having those services
404 provided directly. All purchased services must be approved by
405 the agency. Authorization for such services is dependent on the
406 availability of agency funding.

407 (3) Community ~~Community-based~~ services that are medically
408 necessary to prevent the institutionalization of individuals
409 with developmental disabilities must be provided in the most
410 cost-effective manner to the extent of the availability of
411 agency resources as specified in the General Appropriations Act.
412 These services may ~~shall, to the extent of available resources,~~
413 include:

- 414 (a) Adult day training and adult day services.
- 415 (b) Family care services.
- 416 (c) Guardian advocate referral services.
- 417 (d) Medical/dental services, except that medical services
- 418 shall not be provided to individuals ~~clients~~ with spina bifida



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419 except as specifically appropriated by the Legislature.
420 ~~(e) Parent training.~~
421 (e) ~~(f)~~ Personal care services and personal support
422 services.
423 ~~(g) Recreation.~~
424 (f) ~~(h)~~ Residential habilitation facility services.
425 (g) ~~(i)~~ Respite services.
426 (h) ~~(j)~~ Support coordination social services.
427 (i) ~~(k)~~ Specialized therapies.
428 (j) ~~(l)~~ Supported employment.
429 (k) ~~(m)~~ Supported living.
430 (l) ~~(n)~~ Training, including behavioral analysis services.
431 (m) ~~(o)~~ Transportation.
432 (n) ~~(p)~~ Other habilitative and rehabilitative services as
433 needed.
434 (4) The agency or the agency's agents shall identify and
435 engage in efforts to develop, increase, or enhance the
436 availability of nonwaiver resources to individuals who have
437 developmental disabilities. The agency shall promote
438 partnerships and collaborative efforts with families;
439 organizations, such as nonprofit agencies and foundations;
440 places of worship; schools; community organizations and clubs;
441 businesses; local governments; and state and federal agencies
442 shall utilize the services of private businesses, not-for-profit
443 organizations, and units of local government whenever such
444 services are more cost-efficient than such services provided
445 directly by the department, including arrangements for provision
446 of residential facilities.
447 ~~(5) In order to improve the potential for utilization of~~



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448 ~~more cost effective, community-based residential facilities, the~~
449 ~~agency shall promote the statewide development of day~~
450 ~~habilitation services for clients who live with a direct service~~
451 ~~provider in a community-based residential facility and who do~~
452 ~~not require 24-hour-a-day care in a hospital or other health~~
453 ~~care institution, but who may, in the absence of day~~
454 ~~habilitation services, require admission to a developmental~~
455 ~~disabilities center. Each day service facility shall provide a~~
456 ~~protective physical environment for clients, ensure that direct~~
457 ~~service providers meet minimum screening standards as required~~
458 ~~in s. 393.0655, make available to all day habilitation service~~
459 ~~participants at least one meal on each day of operation, provide~~
460 ~~facilities to enable participants to obtain needed rest while~~
461 ~~attending the program, as appropriate, and provide social and~~
462 ~~educational activities designed to stimulate interest and~~
463 ~~provide socialization skills.~~

464 (5)~~(6)~~ To promote independence and productivity, the agency
465 shall provide supports and services, within available resources,
466 to assist individuals ~~clients~~ enrolled in ~~Medicaid~~ waivers who
467 choose to pursue gainful employment.

468 (6)~~(7)~~ For the purpose of making needed community-based
469 residential facilities available at the least possible cost to
470 the state, the agency may ~~is authorized to~~ lease privately owned
471 residential facilities under long-term rental agreements, if
472 such ~~rental~~ agreements are projected to be less costly to the
473 state over the useful life of the facility than state purchase
474 or state construction of ~~such~~ a facility.

475 (7)~~(8)~~ The agency may adopt rules providing definitions,
476 eligibility criteria, and procedures for the purchase of



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477 services provided pursuant to this section.

478 Section 5. Section 393.0661, Florida Statutes, is amended
479 to read:

480 393.0661 Home and community-based services delivery system;
481 comprehensive redesign.—The Legislature finds that the home and
482 community-based services delivery system for individuals who
483 have persons with developmental disabilities and the
484 availability of appropriated funds are two of the critical
485 elements in making services available. ~~Therefore, it is the~~
486 ~~intent of the Legislature that the Agency for Persons with~~
487 ~~Disabilities shall develop and implement a comprehensive~~
488 ~~redesign of the system.~~

489 (1) The ~~redesign of the~~ home and community-based services
490 system must ~~shall~~ include, at a minimum, ~~all actions necessary~~
491 ~~to achieve~~ an appropriate rate structure, individual client
492 choice within a specified service package, appropriate
493 assessment strategies, an efficient billing process that
494 contains reconciliation and monitoring components, and a
495 ~~redefined~~ role for support coordinators which that avoids
496 conflicts of interest and ensures that an individual's needs for
497 critical services, which maximize his or her independence and
498 avoid institutionalization through the use of innovative,
499 effective, efficient, and sustainable solutions, are addressed
500 ~~potential conflicts of interest and ensures that family/client~~
501 ~~budgets are linked to levels of need.~~

502 (a) The agency shall use the Questionnaire for Situational
503 Information or another needs an assessment instrument deemed by
504 ~~instrument that the agency deems to be reliable and valid,~~
505 ~~including, but not limited to, the Department of Children and~~



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506 ~~Family Services' Individual Cost Guidelines or the agency's~~
507 ~~Questionnaire for Situational Information.~~ The agency may
508 contract with an external vendor ~~or may use support coordinators~~
509 to complete individual needs ~~elient~~ assessments if it develops
510 sufficient safeguards and training to ensure ongoing inter-rater
511 reliability.

512 (b) The agency, with the concurrence of the Agency for
513 Health Care Administration, may contract for the determination
514 of medical necessity and establishment of individual budgets.

515 (2) A provider of services rendered to individuals who have
516 ~~persons with~~ developmental disabilities pursuant to a federally
517 approved waiver shall be reimbursed according to a rate
518 methodology based upon an analysis of the expenditure history
519 and prospective costs of providers participating in the waiver
520 program, or under any other methodology developed by the Agency
521 for Health Care Administration, in consultation with the agency
522 for Persons with Disabilities, and approved by the Federal
523 Government in accordance with the waiver.

524 (3) The Agency for Health Care Administration, in
525 consultation with the agency, shall seek federal approval and
526 implement a four-tiered waiver system to serve eligible
527 individuals ~~elients through the developmental disabilities and~~
528 ~~family and supported living waivers.~~ For the purpose of the ~~this~~
529 waiver program, eligible individuals ~~elients shall~~ include
530 individuals who have ~~with a diagnosis of Down syndrome or a~~
531 developmental disability ~~as defined in s. 393.063.~~ The agency
532 shall assign all individuals ~~elients~~ receiving services through
533 the ~~developmental disabilities~~ waiver to a tier based on the
534 ~~Department of Children and Family Services' Individual Cost~~



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535 ~~Guidelines,~~ the agency's Questionnaire for Situational
536 Information, or another such assessment instrument deemed to be
537 valid and reliable by the agency; individual ~~elient~~
538 characteristics, including, but not limited to, age; and other
539 appropriate assessment methods. Final determination of tier
540 eligibility may not be made until a waiver slot and funding
541 become available and only then may the individual be enrolled in
542 the appropriate tier. If an individual is later determined
543 eligible for a higher tier, assignment to the higher tier must
544 be based on crisis criteria as adopted by rule. The agency may
545 also later move an individual to a lower tier if his or her
546 service needs change and can be met by services provided in a
547 lower tier. The agency may not authorize the provision of
548 services that are duplicated by, or that are above the coverage
549 limits of, the Medicaid state plan.

550 (a) Tier one is limited to individuals ~~elients~~ who have
551 intensive medical or adaptive service needs that cannot be met
552 in tier two, three, or four ~~for intensive medical or adaptive~~
553 ~~needs and that are essential for avoiding institutionalization,~~
554 or who possess behavioral problems that are exceptional in
555 intensity, duration, or frequency and present a substantial risk
556 of harm to themselves or others. ~~Total annual expenditures under~~
557 ~~tier one may not exceed \$150,000 per client each year, provided~~
558 ~~that expenditures for clients in tier one with a documented~~
559 ~~medical necessity requiring intensive behavioral residential~~
560 ~~habilitation services, intensive behavioral residential~~
561 ~~habilitation services with medical needs, or special medical~~
562 ~~home care, as provided in the Developmental Disabilities Waiver~~
563 ~~Services Coverage and Limitations Handbook, are not subject to~~



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564 ~~the \$150,000 limit on annual expenditures.~~

565 (b) Tier two is limited to individuals ~~clients~~ whose
566 service needs include a licensed residential facility and who
567 are authorized to receive a moderate level of support for
568 standard residential habilitation services or a minimal level of
569 support for behavior focus residential habilitation services, or
570 individuals ~~clients~~ in supported living who receive more than 6
571 hours a day of in-home support services. Tier two also includes
572 individuals whose need for authorized services meets the
573 criteria for tier one but can be met within the expenditure
574 limit of tier two. Total annual expenditures under tier two may
575 not exceed \$53,625 per individual ~~client~~ each year.

576 (c) Tier three includes, but is not limited to, individuals
577 who require ~~clients requiring~~ residential placements,
578 individuals who are ~~clients~~ in independent or supported living
579 situations, and individuals ~~clients~~ who live in their family
580 home. Tier three also includes individuals whose need for
581 authorized services meets the criteria for tiers one or two but
582 can be met within the expenditure limit of tier three. Total
583 annual expenditures under tier three may not exceed \$34,125 per
584 individual ~~client~~ each year.

585 (d) Tier four includes individuals who were enrolled in the
586 family and supported living waiver on July 1, 2007, and were ~~who~~
587 ~~shall be~~ assigned to this tier without the assessments required
588 by this section. Tier four also includes, but is not limited to,
589 individuals ~~clients~~ in independent or supported living
590 situations and individuals ~~clients~~ who live in their family
591 home. Total annual expenditures under tier four may not exceed
592 \$14,422 per individual ~~client~~ ~~each year.~~



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593 (e) The Agency for Health Care Administration shall also
594 seek federal approval to provide a consumer-directed option for
595 individuals who have ~~persons with~~ developmental disabilities
596 ~~which corresponds to the funding levels in each of the waiver~~
597 ~~tiers. The agency shall implement the four-tiered waiver system~~
598 ~~beginning with tiers one, three, and four and followed by tier~~
599 ~~two. The agency and the Agency for Health Care Administration~~
600 ~~may adopt rules necessary to administer this subsection.~~

601 (f) The agency shall seek federal waivers and amend
602 contracts as necessary to make changes to services defined in
603 ~~federal~~ waiver programs administered by the agency as follows:

604 1. Supported living coaching services may not exceed 20
605 hours per month for individuals ~~persons~~ who also receive in-home
606 support services.

607 2. Limited support coordination services is the only type
608 of support coordination service that may be provided to
609 individuals ~~persons~~ under the age of 18 who live in the family
610 home.

611 3. Personal care assistance services are limited to 180
612 hours per calendar month and may not include rate modifiers.
613 Additional hours may be authorized for individuals ~~persons~~ who
614 have intensive physical, medical, or adaptive needs if such
615 hours are essential for avoiding institutionalization.

616 4. Residential habilitation services are limited to 8 hours
617 per day. Additional hours may be authorized for individuals
618 ~~persons~~ who have intensive medical or adaptive needs and if such
619 hours are essential for avoiding institutionalization, or for
620 individuals ~~persons~~ who possess behavioral problems that are
621 exceptional in intensity, duration, or frequency and present a



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622 substantial risk of harming themselves or others. This
623 restriction shall be in effect until the four-tiered waiver
624 system is fully implemented.

625 ~~5. Chore services, nonresidential support services, and~~
626 ~~homemaker services are eliminated. The agency shall expand the~~
627 ~~definition of in-home support services to allow the service~~
628 ~~provider to include activities previously provided in these~~
629 ~~eliminated services.~~

630 ~~6. Massage therapy, medication review, and psychological~~
631 ~~assessment services are eliminated.~~

632 ~~5.7.~~ The agency shall conduct supplemental cost plan
633 reviews to verify the medical necessity of authorized services
634 for plans that have increased by more than 8 percent during
635 either of the 2 preceding fiscal years.

636 ~~6.8.~~ The agency shall implement a consolidated residential
637 habilitation rate structure to increase savings to the state
638 through a more cost-effective payment method and establish
639 uniform rates for intensive behavioral residential habilitation
640 services.

641 ~~9. Pending federal approval, the agency may extend current~~
642 ~~support plans for clients receiving services under Medicaid~~
643 ~~wavers for 1 year beginning July 1, 2007, or from the date~~
644 ~~approved, whichever is later. Clients who have a substantial~~
645 ~~change in circumstances which threatens their health and safety~~
646 ~~may be reassessed during this year in order to determine the~~
647 ~~necessity for a change in their support plan.~~

648 ~~7.10.~~ The agency shall develop a plan to eliminate
649 redundancies and duplications between in-home support services,
650 companion services, personal care services, and supported living



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651 coaching by limiting or consolidating such services.

652 ~~8.11.~~ The agency shall develop a plan to reduce the
653 intensity and frequency of supported employment services to
654 individuals ~~clients~~ in stable employment situations who have a
655 documented history of at least 3 years' employment with the same
656 company or in the same industry.

657 (g) The agency and the Agency for Health Care
658 Administration may adopt rules to administer this subsection.

659 (4) The geographic differential for Miami-Dade, Broward,
660 and Palm Beach Counties for residential habilitation services is
661 ~~shall be~~ 7.5 percent.

662 (5) The geographic differential for Monroe County for
663 residential habilitation services is ~~shall be~~ 20 percent.

664 ~~(6) Effective January 1, 2010, and except as otherwise~~
665 ~~provided in this section, a client served by the home and~~
666 ~~community-based services waiver or the family and supported~~
667 ~~living waiver funded through the agency shall have his or her~~
668 ~~cost plan adjusted to reflect the amount of expenditures for the~~
669 ~~previous state fiscal year plus 5 percent if such amount is less~~
670 ~~than the client's existing cost plan. The agency shall use~~
671 ~~actual paid claims for services provided during the previous~~
672 ~~fiscal year that are submitted by October 31 to calculate the~~
673 ~~revised cost plan amount. If the client was not served for the~~
674 ~~entire previous state fiscal year or there was any single change~~
675 ~~in the cost plan amount of more than 5 percent during the~~
676 ~~previous state fiscal year, the agency shall set the cost plan~~
677 ~~amount at an estimated annualized expenditure amount plus 5~~
678 ~~percent. The agency shall estimate the annualized expenditure~~
679 ~~amount by calculating the average of monthly expenditures,~~



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680 ~~beginning in the fourth month after the client enrolled,~~
681 ~~interrupted services are resumed, or the cost plan was changed~~
682 ~~by more than 5 percent and ending on August 31, 2009, and~~
683 ~~multiplying the average by 12. In order to determine whether a~~
684 ~~client was not served for the entire year, the agency shall~~
685 ~~include any interruption of a waiver-funded service or services~~
686 ~~lasting at least 18 days. If at least 3 months of actual~~
687 ~~expenditure data are not available to estimate annualized~~
688 ~~expenditures, the agency may not rebase a cost plan pursuant to~~
689 ~~this subsection. The agency may not rebase the cost plan of any~~
690 ~~client who experiences a significant change in recipient~~
691 ~~condition or circumstance which results in a change of more than~~
692 ~~5 percent to his or her cost plan between July 1 and the date~~
693 ~~that a rebased cost plan would take effect pursuant to this~~
694 ~~subsection.~~

695 (6)~~(7)~~ The agency may ~~shall~~ collect premiums or cost
696 sharing pursuant to s. 409.906(13)(d).

697 (7) In determining whether to continue Medicaid waiver
698 provider agreements for service providers, including support
699 coordinators, the agency shall review provider performance to
700 ensure that the provider meets or exceeds the criteria
701 established by the agency. The provider agreements and
702 performance reviews shall be managed and conducted by the
703 agency's area offices.

704 (a) Criteria for evaluating the performance of a service
705 provider include, but are not limited to:

706 1. The protection of the health, safety, and welfare of the
707 individual.

708 2. Assisting the individual and his or her support



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709 coordinator in identifying nonwaiver resources that may be
710 available to meet the individual's needs. The waiver is the
711 funding source of last resort for services.

712 3. Providing services that are authorized in the service
713 authorization approved by the agency.

714 (b) The support coordinator is responsible for assisting
715 the individual in meeting his or her service needs through
716 nonwaiver resources, as well as through the individual's budget
717 allocation or cost plan under the waiver. The waiver is the
718 funding source of last resort for services. Criteria for
719 evaluating the performance of a support coordinator include, but
720 are not limited to:

721 1. The protection of the health, safety, and welfare of
722 individuals.

723 2. Assisting individuals in obtaining employment and
724 pursuing other meaningful activities.

725 3. Assisting individuals in accessing services that allow
726 them to live in their community.

727 4. The use of family resources.

728 5. The use of private or third-party resources.

729 6. The use of community resources.

730 7. The use of charitable resources.

731 8. The use of volunteer resources.

732 9. The use of services from other governmental entities.

733 10. The overall outcome in securing nonwaiver resources.

734 11. The cost-effective use of waiver resources.

735 12. Coordinating all available resources to ensure that the
736 individual's outcomes are met.

737 (c) The agency may recognize consistently superior



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738 performance by exempting a service provider, including support
739 coordinators, from annual quality assurance reviews or other
740 mechanisms established by the agency. The agency may issue
741 sanctions for poor performance, including, but not limited to, a
742 reduction in the number of individuals served by the provider,
743 recoupment or other financial penalties, and termination of the
744 waiver provider agreement.

745 (d) The agency may adopt rules to administer this
746 subsection.

747 (8) This section or related rule does not prevent or limit
748 the Agency for Health Care Administration, in consultation with
749 the agency ~~for Persons with Disabilities~~, from adjusting fees,
750 reimbursement rates, lengths of stay, number of visits, or
751 number of services, or from limiting enrollment, or making any
752 other adjustment necessary to comply with the availability of
753 moneys and any limitations or directions provided in the General
754 Appropriations Act.

755 (9) The agency ~~for Persons with Disabilities~~ shall submit
756 quarterly status reports to the Executive Office of the Governor
757 and, the chairs of the legislative appropriations committees
758 ~~chair of the Senate Ways and Means Committee or its successor,~~
759 ~~and the chair of the House Fiscal Council or its successor~~
760 regarding the financial status of waiver ~~home and community-~~
761 ~~based~~ services, including the number of enrolled individuals who
762 are receiving services through one or more programs; the number
763 of individuals who have requested services who are not enrolled
764 but ~~who~~ are receiving services through one or more programs,
765 including with a description indicating the programs from which
766 the individual is receiving services; the number of individuals



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767 who have refused an offer of services but who choose to remain
768 on the list of individuals waiting for services; the number of
769 individuals who have requested services but ~~who~~ are not
770 receiving ~~no~~ services; a frequency distribution indicating the
771 length of time individuals have been waiting for services; and
772 information concerning the actual and projected costs compared
773 to the amount of the appropriation available to the program and
774 any projected surpluses or deficits. If at any time an analysis
775 by the agency, in consultation with the Agency for Health Care
776 Administration, indicates that the cost of services is expected
777 to exceed the amount appropriated, the agency shall submit a
778 plan in accordance with subsection (8) to the Executive Office
779 of the Governor and the chairs of the legislative appropriations
780 committees, the chair of the Senate Ways and Means Committee or
781 its successor, and the chair of the House Fiscal Council or its
782 successor to remain within the amount appropriated. The agency
783 shall work with the Agency for Health Care Administration to
784 implement the plan so as to remain within the appropriation.

785 (10) Implementation of ~~Medicaid~~ waiver programs and
786 services authorized under this chapter is limited by the funds
787 appropriated for the individual budgets pursuant to s. 393.0662
788 and the four-tiered waiver system pursuant to subsection (3).
789 Contracts with independent support coordinators and service
790 providers must include provisions requiring compliance with
791 agency cost containment initiatives. The agency shall implement
792 monitoring and accounting procedures necessary to track actual
793 expenditures and project future spending compared to available
794 appropriations for Medicaid waiver programs. If ~~When~~ necessary,
795 based on projected deficits, the agency shall ~~must~~ establish



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796 specific corrective action plans that incorporate corrective
797 actions for ~~of~~ contracted providers which ~~that~~ are sufficient to
798 align program expenditures with annual appropriations. If
799 deficits continue during the 2012-2013 fiscal year, the agency
800 in conjunction with the Agency for Health Care Administration
801 shall develop a plan to redesign the waiver program and submit
802 the plan to the President of the Senate and the Speaker of the
803 House of Representatives by September 30, 2013. At a minimum,
804 the plan must include the following elements:

805 (a) *Budget predictability.*—Agency budget recommendations
806 must include specific steps to restrict spending to budgeted
807 amounts based on alternatives to the iBudget and four-tiered
808 ~~Medicaid~~ waiver models.

809 (b) *Services.*—The agency shall identify core services that
810 are essential to provide for individual ~~client~~ health and safety
811 and recommend the elimination of coverage for other services
812 that are not affordable based on available resources.

813 (c) *Flexibility.*—The redesign must ~~shall~~ be responsive to
814 individual needs and to the extent possible encourage individual
815 ~~client~~ control over allocated resources for their needs.

816 (d) *Support coordination services.*—The plan must ~~shall~~
817 modify the manner of providing support coordination services to
818 improve management of service utilization and increase
819 accountability and responsiveness to agency priorities.

820 (e) *Reporting.*—The agency shall provide monthly reports to
821 the President of the Senate and the Speaker of the House of
822 Representatives on plan progress and development on July 31,
823 2013, and August 31, 2013.

824 (f) *Implementation.*—The implementation of a redesigned



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825 program is subject to legislative approval and must ~~shall~~ occur
826 by no later than July 1, 2014. The Agency for Health Care
827 Administration shall seek federal waivers as needed to implement
828 the redesigned plan approved by the Legislature.

829 Section 6. Section 393.0662, Florida Statutes, is amended
830 to read:

831 393.0662 Individual budgets for delivery of home and
832 community-based services; iBudget system established.—The
833 Legislature finds that improved financial management of the
834 existing home and community-based ~~Medicaid~~ waiver program is
835 necessary to avoid deficits that impede the provision of
836 services to individuals who are on the waiting list for
837 enrollment in the program. The Legislature further finds that
838 individuals ~~clients~~ and their families should have greater
839 flexibility to choose the services that best allow them to live
840 in their community within the limits of an established budget.
841 Therefore, the Legislature intends that the agency, in
842 consultation with the Agency for Health Care Administration,
843 develop and implement a comprehensive redesign of the service
844 delivery system using individual budgets as the basis for
845 allocating the funds appropriated for the ~~home and community-~~
846 ~~based services Medicaid~~ waiver program among eligible enrolled
847 individuals ~~clients~~. The service delivery system that uses
848 individual budgets shall be called the iBudget system.

849 (1) The agency shall establish a ~~an individual~~ budget, to
850 be referred to as an iBudget, for each individual served by the
851 home and community-based services ~~Medicaid~~ waiver program. The
852 funds appropriated to the agency shall be allocated through the
853 iBudget system to eligible, Medicaid-enrolled individuals who



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854 ~~have~~ elients. ~~For the iBudget system, Eligible clients shall~~
855 ~~include individuals with a diagnosis of Down syndrome or a~~
856 developmental disability as ~~defined in s. 393.063.~~ The iBudget
857 system shall be designed to provide ~~for:~~ enhanced individual
858 ~~elient~~ choice within a specified service package; appropriate
859 assessment strategies; an efficient consumer budgeting and
860 billing process that includes reconciliation and monitoring
861 components; a redefined role for support coordinators which ~~that~~
862 avoids potential conflicts of interest; a flexible and
863 streamlined service review process; and a methodology and
864 process that ensures the equitable allocation of available funds
865 to each individual elient based on his or her ~~the elient's~~ level
866 of need, as determined by the variables in the allocation
867 algorithm.

868 (2)(a) ~~In developing each individual's elient's~~ iBudget,
869 the agency shall use an allocation algorithm and methodology.

870 (a) The algorithm shall use variables that have been
871 determined by the agency to have a statistically validated
872 relationship to an individual's ~~the elient's~~ level of need for
873 services provided through the ~~home and community-based services~~
874 ~~Medicaid~~ waiver program. The algorithm and methodology may
875 consider individual characteristics, including, but not limited
876 to, an individual's ~~a elient's~~ age and living situation,
877 information from a formal assessment instrument that the agency
878 determines is valid and reliable, and information from other
879 assessment processes.

880 (b) The allocation methodology shall provide the algorithm
881 that determines the amount of funds allocated to an individual's
882 ~~a elient's~~ iBudget. The agency may approve an increase in the



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883 amount ~~of funds~~ allocated, ~~as determined~~ by the algorithm, based
884 on the individual client having one or more of the following
885 needs that cannot be accommodated within the ~~funding as~~
886 ~~determined by the~~ algorithm allocation and having no other
887 resources, supports, or services available to meet such needs
888 ~~the need~~:

889 1. An extraordinary need that would place the health and
890 safety of the individual client, the individual's client's
891 caregiver, or the public in immediate, serious jeopardy unless
892 the increase is approved. An extraordinary need may include, but
893 is not limited to:

894 a. A documented history of significant, potentially life-
895 threatening behaviors, such as recent attempts at suicide,
896 arson, nonconsensual sexual behavior, or self-injurious behavior
897 requiring medical attention;

898 b. A complex medical condition that requires active
899 intervention by a licensed nurse on an ongoing basis that cannot
900 be taught or delegated to a nonlicensed person;

901 ~~c. A chronic comorbid condition. As used in this~~
902 ~~subparagraph, the term "comorbid condition" means a medical~~
903 ~~condition existing simultaneously but independently with another~~
904 ~~medical condition in a patient; or~~

905 ~~c.d.~~ A need for significant ~~total~~ physical assistance with
906 activities such as eating, bathing, toileting, grooming, and
907 personal hygiene.

908
909 However, the presence of an extraordinary need alone does not
910 warrant an increase in the amount of funds allocated to an
911 individual's ~~a client's~~ iBudget as determined by the algorithm.



912 2. A significant need for one-time or temporary support or
913 services that, if not provided, would place the health and
914 safety of the individual ~~client~~, the individual's ~~client's~~
915 caregiver, or the public in serious jeopardy, unless the
916 increase is approved. A significant need may include, but is not
917 limited to, the provision of environmental modifications,
918 durable medical equipment, services to address the temporary
919 loss of support from a caregiver, or special services or
920 treatment for a serious temporary condition when the service or
921 treatment is expected to ameliorate the underlying condition. As
922 used in this subparagraph, the term "temporary" means less ~~a~~
923 ~~period of fewer~~ than 12 continuous months. However, the presence
924 of such significant need for one-time or temporary supports or
925 services alone does not warrant an increase in the amount of
926 funds allocated to an individual's ~~a client's~~ iBudget as
927 determined by the algorithm.

928 3. A significant increase in the need for services after
929 the beginning of the service plan year which ~~that~~ would place
930 the health and safety of the individual ~~client~~, the individual's
931 ~~client's~~ caregiver, or the public in serious jeopardy because of
932 substantial changes in the individual's ~~client's~~ circumstances,
933 including, but not limited to, permanent or long-term loss or
934 incapacity of a caregiver, loss of services authorized under the
935 state Medicaid plan due to a change in age, or a significant
936 change in medical or functional status which requires the
937 provision of additional services on a permanent or long-term
938 basis which ~~that~~ cannot be accommodated within the individual's
939 ~~client's~~ current iBudget. As used in this subparagraph, the term
940 "long-term" means ~~a period of~~ 12 or more continuous months.



941 However, such significant increase in need for services of a
942 permanent or long-term nature alone does not warrant an increase
943 in the amount of funds allocated to an individual's ~~a client's~~
944 iBudget as determined by the algorithm.

945
946 The agency shall reserve portions of the appropriation for the
947 ~~home and community-based services Medicaid~~ waiver program for
948 adjustments required pursuant to this paragraph and may use the
949 services of an independent actuary in determining the amount of
950 the portions to be reserved.

951 (c) An individual's ~~A client's~~ iBudget shall be the total
952 of the amount determined by the algorithm and any additional
953 funding provided pursuant to paragraph (b).

954 (d) An individual's iBudget cost plan must meet the
955 requirements contained in the Coverage and Limitation Handbook
956 for each service included, and must comply with the other
957 requirements of this section. An individual has the flexibility
958 to determine the type, amount, frequency, duration, and scope of
959 services included in the approved cost plan as long as the
960 agency determines that such services meet his or her health and
961 safety needs and are necessary to avoid institutionalization.

962 (e) An individual's ~~A client's~~ annual expenditures for ~~home~~
963 ~~and community-based services Medicaid~~ waiver services may not
964 exceed the limits of his or her iBudget. The total of all
965 ~~clients'~~ projected annual iBudget expenditures may not exceed
966 the agency's appropriation for waiver services.

967 (3)~~(2)~~ The Agency for Health Care Administration, in
968 consultation with the agency, shall seek federal approval to
969 amend current waivers, request a new waiver, and amend contracts



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970 as necessary to implement the iBudget system to serve eligible,
971 enrolled individuals ~~clients~~ through the home and community-
972 based services ~~Medicaid~~ waiver program and the Consumer-Directed
973 Care Plus Program.

974 ~~(4)(3)~~ The agency shall transition all eligible, enrolled
975 individuals ~~clients~~ to the iBudget system. The agency may
976 gradually phase in the iBudget system.

977 (a) During the phase-in of the iBudget system, the agency
978 shall determine an individual's initial iBudget by comparing the
979 individual's algorithm allocation to the individual's current
980 annualized cost plan and extraordinary needs. The individual's
981 algorithm allocation shall be the amount determined by the
982 algorithm, adjusted to the agency's appropriation and any set-
983 asides determined necessary by the agency, including, but not
984 limited to, funding for individuals who have extraordinary needs
985 as delineated in paragraph (2) (b). The amount of funding needed
986 to address each individual's extraordinary needs shall be
987 reviewed by the area office in order to determine the medical
988 necessity for each service in the amount, duration, frequency,
989 intensity, and scope that meets the individual's needs. The
990 agency shall consider the individual's characteristics based on
991 a needs assessment as well as the his or her living setting,
992 availability of natural supports, family circumstances, and
993 other factors that may affect the level of service needed by the
994 individual.

995 (b) The individual's medical-necessity review must include
996 a comparison of the following:

997 1. If the individual's algorithm allocation is greater than
998 the individual annualized cost plan, the individual's iBudget is



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999 equal to the annualized cost plan amount.

1000 2. If the individual's algorithm allocation is less than
1001 the individual's annualized cost plan but greater than the
1002 amount for the individual's needs including extraordinary needs,
1003 the individual's iBudget is equal to the algorithm allocation.

1004 3. If the individual's algorithm allocation is less than
1005 the amount for the individual's needs including extraordinary
1006 needs, the individual's iBudget is equal to the amount for the
1007 individual's extraordinary needs.

1008
1009 The individual's annualized iBudget amount may not be less than
1010 50 percent of his or her annualized cost plan. If the
1011 individual's iBudget is less than his or her annualized cost
1012 plan, and is within \$1,000 of the current cost plan, the agency
1013 may adjust the iBudget to equal the cost plan amount.

1014 (c) During the 2011-2012 and 2012-2013 fiscal years,
1015 increases to an individual's initial iBudget amount may be
1016 granted only if the criteria for extraordinary needs as
1017 delineated in paragraph (2) (b) are met.

1018 (d) ~~(a)~~ While the agency phases in the iBudget system, the
1019 agency may continue to serve eligible, enrolled individuals
1020 ~~clients~~ under the four-tiered waiver system established under s.
1021 393.065 while those individuals ~~clients~~ await transitioning to
1022 the iBudget system.

1023 ~~(b) The agency shall design the phase-in process to ensure~~
1024 ~~that a client does not experience more than one-half of any~~
1025 ~~expected overall increase or decrease to his or her existing~~
1026 ~~annualized cost plan during the first year that the client is~~
1027 ~~provided an iBudget due solely to the transition to the iBudget~~



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1028 ~~system.~~

1029 (5)(4) An individual ~~A client~~ must use all available
1030 nonwaiver services ~~authorized under the state Medicaid plan,~~
1031 ~~school-based services, private insurance and other benefits, and~~
1032 ~~any other resources~~ that may be available to him or her ~~the~~
1033 ~~client~~ before using funds from his or her iBudget to pay for
1034 support and services.

1035 (6)(5) The service limitations in s. 393.0661(3)(f)1., 2.,
1036 and 3. do not apply to the iBudget system.

1037 (7)(6) Rates for any or all services established under
1038 rules of the Agency for Health Care Administration must ~~shall~~ be
1039 designated as the maximum rather than a fixed amount for
1040 individuals who receive an iBudget, except for services
1041 specifically identified in those rules that the agency
1042 determines are not appropriate for negotiation, which may
1043 include, but are not limited to, residential habilitation
1044 services.

1045 (8)(7) The agency must ~~shall~~ ensure that individuals
1046 ~~clients~~ and caregivers have access to training and education
1047 that informs ~~to inform~~ them about the iBudget system and
1048 enhances ~~enhance~~ their ability for self-direction. Such training
1049 must be provided ~~shall be offered~~ in a variety of formats and,
1050 at a minimum, must ~~shall~~ address the policies and processes of
1051 the iBudget system; the roles and responsibilities of consumers,
1052 caregivers, waiver support coordinators, providers, and the
1053 agency; information that is available to help the individual
1054 ~~client~~ make decisions regarding the iBudget system; and examples
1055 of nonwaiver ~~support and~~ resources that may be available in the
1056 community.



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1057 ~~(9)-(8)~~ The agency shall collect data to evaluate the
1058 implementation and outcomes of the iBudget system.

1059 ~~(10)-(9)~~ The agency and the Agency for Health Care
1060 Administration may adopt rules specifying the allocation
1061 algorithm and methodology; criteria and processes that allow
1062 individuals for clients to access reserved funds for
1063 extraordinary needs, temporarily or permanently changed needs,
1064 and one-time needs; and processes and requirements for the
1065 selection and review of services, development of support and
1066 cost plans, and management of the iBudget system as needed to
1067 administer this section.

1068 Section 7. Subsection (2) of section 393.067, Florida
1069 Statutes, is amended to read:

1070 393.067 Facility licensure.—

1071 (2) The agency shall conduct annual inspections and reviews
1072 of facilities and programs licensed under this section unless
1073 the facility or program is currently accredited by the Joint
1074 Commission, the Commission on Accreditation of Rehabilitation
1075 Facilities, or the Council on Accreditation. Facilities or
1076 programs that are operating under such accreditation must be
1077 inspected and reviewed by the agency once every 2 years. If,
1078 upon inspection and review, the services and service delivery
1079 sites are not those for which the facility or program is
1080 accredited, the facilities and programs must be inspected and
1081 reviewed in accordance with this section and related rules
1082 adopted by the agency.

1083 (a) Notwithstanding current accreditation, the agency may
1084 continue to monitor the facility or program as necessary with
1085 respect to:



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1086 1. Ensuring that services for which the agency is paying
1087 are being provided.

1088 2. Investigating complaints, identifying problems that
1089 would affect the safety or viability of the facility or program,
1090 and monitoring the facility's or program's compliance with any
1091 resulting negotiated terms and conditions, including provisions
1092 relating to consent decrees which are unique to a specific
1093 service and are not statements of general applicability.

1094 3. Ensuring compliance with federal and state laws, federal
1095 regulations, or state rules if such monitoring does not
1096 duplicate the accrediting organization's review pursuant to
1097 accreditation standards.

1098 4. Ensuring Medicaid compliance with federal certification
1099 and precertification review requirements.

1100 (b) The agency shall conduct ongoing health and safety
1101 surveys that pertain to the regular monitoring and oversight of
1102 agency-licensed residential facilities in accordance with the
1103 frequency schedule specified in administrative rules.

1104 Section 8. Subsections (2), (3), and (4) of section
1105 393.068, Florida Statutes, are amended to read:

1106 393.068 Family care program.—

1107 (2) Services and support authorized under the family care
1108 program shall, to the extent of available resources, include the
1109 services listed under s. 393.0662(4) ~~393.066~~ and, in addition,
1110 shall include, but not be limited to:

- 1111 (a) Attendant care.
- 1112 (b) Barrier-free modifications to the home.
- 1113 (c) Home visitation by agency workers.
- 1114 (d) In-home subsidies.



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- 1115 (e) Low-interest loans.
- 1116 (f) Modifications for vehicles used to transport the
1117 individual with a developmental disability.
- 1118 (g) Facilitated communication.
- 1119 (h) Family counseling.
- 1120 (i) Equipment and supplies.
- 1121 (j) Self-advocacy training.
- 1122 (k) Roommate services.
- 1123 (l) Integrated community activities.
- 1124 (m) Emergency services.
- 1125 (n) Support coordination.
- 1126 (o) Other support services as identified by the family or
1127 individual.
- 1128 (3) If the agency determines that ~~when it is determined by~~
1129 ~~the agency to be~~ more cost-effective and in the best interest of
1130 the individual client to provide services ~~maintain such client~~
1131 in the home of a direct service provider, the parent or guardian
1132 of the individual client or, if competent, the individual client
1133 may enroll ~~the client~~ in the family care program. The direct
1134 service provider of an individual a client enrolled in the
1135 family care program shall be reimbursed according to a rate
1136 schedule set by the agency, except that in-home subsidies shall
1137 be provided in accordance with s. 393.0695.
- 1138 (4) All existing nonwaiver community resources available to
1139 an individual must be used ~~the client shall be utilized~~ to
1140 support program objectives. Additional services may be
1141 incorporated into the program as appropriate and to the extent
1142 that resources are available. The agency may ~~is authorized to~~
1143 accept gifts and grants in order to carry out the program.



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1144 Section 9. Section 393.11, Florida Statutes, is amended to
1145 read:

1146 393.11 Involuntary admission to residential services.—

1147 (1) JURISDICTION.—If an individual ~~When a person~~ is
1148 determined to be eligible to receive services from the agency
1149 ~~mentally retarded~~ and requires involuntary admission to
1150 residential services provided by the agency, the circuit court
1151 of the county in which the individual ~~person~~ resides shall have
1152 jurisdiction to conduct a hearing and enter an order
1153 involuntarily admitting the individual ~~person~~ in order to
1154 provide ~~that the person may receive~~ the care, treatment,
1155 habilitation, and rehabilitation that he or she ~~which the person~~
1156 needs. For the purpose of identifying mental retardation or
1157 autism, diagnostic capability shall be established by the
1158 agency. Except as otherwise specified, the proceedings under
1159 this section are ~~shall be~~ governed by the Florida Rules of Civil
1160 Procedure.

1161 (2) PETITION.—

1162 (a) A petition for involuntary admission to residential
1163 services may be executed by a petitioning commission or the
1164 agency.

1165 (b) The petitioning commission shall consist of three
1166 persons, ~~of~~ whom ~~these persons~~ shall be a physician
1167 licensed and practicing under chapter 458 or chapter 459.

1168 (c) The petition must ~~shall~~ be verified and must ~~shall~~:

1169 1. State the name, age, and present address of the
1170 commissioners and their relationship to the individual who is
1171 the subject of the petition ~~person with mental retardation or~~
1172 ~~autism~~;



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1173 2. State the name, age, county of residence, and present
1174 address of the individual who is the subject of the petition
1175 ~~person with mental retardation or autism~~;

1176 3. Allege that the individual ~~commission believes that the~~
1177 ~~person~~ needs involuntary residential services and specify the
1178 factual information on which the belief is based;

1179 4. Allege that the individual ~~person~~ lacks sufficient
1180 capacity to give express and informed consent to a voluntary
1181 application for services and lacks the basic survival and self-
1182 care skills to provide for the individual's ~~person's~~ well-being
1183 or is likely to physically injure others if allowed to remain at
1184 liberty; and

1185 5. State which residential setting is the least restrictive
1186 and most appropriate alternative and specify the factual
1187 information on which the belief is based.

1188 (d) The petition shall be filed in the circuit court of the
1189 county in which the individual who is the subject of the
1190 petition ~~person with mental retardation or autism~~ resides.

1191 (3) NOTICE.-

1192 (a) Notice of the filing of the petition shall be given to
1193 the individual and his or her legal guardian. The notice shall
1194 be given both verbally and in writing in the language of the
1195 individual ~~client~~, or in other modes of communication of the
1196 individual ~~client~~, and in English. Notice shall also be given to
1197 such other persons as the court may direct. The petition for
1198 involuntary admission to residential services shall be served
1199 with the notice.

1200 (b) If ~~Whenever~~ a motion or petition has been filed
1201 pursuant to s. 916.303 to dismiss criminal charges against an



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1202 individual ~~a defendant with retardation or autism~~, and a
1203 petition is filed to involuntarily admit the individual
1204 ~~defendant~~ to residential services under this section, the notice
1205 of the filing of the petition shall also be given to the
1206 individual's ~~defendant's~~ attorney, the state attorney of the
1207 circuit from which the individual ~~defendant~~ was committed, and
1208 the agency.

1209 (c) The notice shall state that a hearing shall be set to
1210 inquire into the need of the individual ~~person with mental~~
1211 ~~retardation or autism~~ for involuntary residential services. The
1212 notice shall also state the date of the hearing on the petition.

1213 (d) The notice shall state that the individual ~~with mental~~
1214 ~~retardation or autism~~ has the right to be represented by counsel
1215 of his or her own choice and that, if the individual ~~person~~
1216 cannot afford an attorney, the court shall appoint one.

1217 (4) AGENCY PARTICIPATION.—

1218 (a) Upon receiving the petition, the court shall
1219 immediately order the developmental services program of the
1220 agency to examine the individual ~~person~~ being considered for
1221 involuntary admission to residential services.

1222 (b) Following examination, the agency shall file a written
1223 report with the court not less than 10 working days before the
1224 date of the hearing. The report must be served on the
1225 petitioner, the individual who is the subject of the petition
1226 ~~person with mental retardation~~, and the individual's ~~person's~~
1227 attorney at the time the report is filed with the court.

1228 (c) The report must contain the findings of the agency's
1229 evaluation, any recommendations deemed appropriate, and a
1230 determination of whether the individual ~~person~~ is eligible for



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1231 services under this chapter.

1232 (5) EXAMINING COMMITTEE.—

1233 (a) Upon receiving the petition, the court shall
1234 immediately appoint an examining committee to examine the
1235 individual ~~person~~ being considered for involuntary admission to
1236 residential services provided by the agency.

1237 (b) The court shall appoint no fewer than three
1238 disinterested experts who have demonstrated to the court an
1239 expertise in the diagnosis, evaluation, and treatment of
1240 individuals ~~persons~~ with mental retardation. The committee must
1241 include at least one licensed and qualified physician, one
1242 licensed and qualified psychologist, and one qualified
1243 professional with a minimum of a masters degree in social work,
1244 special education, or vocational rehabilitation counseling, to
1245 examine the individual ~~person~~ and to testify at the hearing on
1246 the involuntary admission to residential services.

1247 (c) Counsel for the individual ~~person who is~~ being
1248 considered for involuntary admission to residential services and
1249 counsel for the petition commission have ~~has~~ the right to
1250 challenge the qualifications of those appointed to the examining
1251 committee.

1252 (d) Members of the committee may not be employees of the
1253 agency or be associated with each other in practice or in
1254 employer-employee relationships. Members of the committee may
1255 not have served as members of the petitioning commission.
1256 Members of the committee may not be employees of the members of
1257 the petitioning commission or be associated in practice with
1258 members of the commission.

1259 (e) The committee shall prepare a written report for the



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1260 court. The report must explicitly document the extent that the
1261 individual ~~person~~ meets the criteria for involuntary admission.
1262 The report, and expert testimony, must include, but not be
1263 limited to:

- 1264 1. The degree of the individual's ~~person's~~ mental
1265 retardation and whether, using diagnostic capabilities
1266 established by the agency, the individual ~~person~~ is eligible for
1267 agency services;
- 1268 2. Whether, because of the individual's ~~person's~~ degree of
1269 mental retardation, the individual ~~person~~:
 - 1270 a. Lacks sufficient capacity to give express and informed
1271 consent to a voluntary application for services pursuant to s.
1272 393.065;
 - 1273 b. Lacks basic survival and self-care skills to such a
1274 degree that close supervision and habilitation in a residential
1275 setting is necessary and if not provided would result in a real
1276 and present threat of substantial harm to the individual's
1277 ~~person's~~ well-being; or
 - 1278 c. Is likely to physically injure others if allowed to
1279 remain at liberty.
- 1280 3. The purpose to be served by residential care;
- 1281 4. A recommendation on the type of residential placement
1282 which would be the most appropriate and least restrictive for
1283 the individual ~~person~~; and
- 1284 5. The appropriate care, habilitation, and treatment.

1285 (f) The committee shall file the report with the court not
1286 less than 10 working days before the date of the hearing. The
1287 report shall be served on the petitioner, the individual who is
1288 the subject of the petition ~~person with mental retardation~~, the



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1289 individual's ~~person's~~ attorney at the time the report is filed
1290 with the court, and the agency.

1291 (g) Members of the examining committee shall receive a
1292 reasonable fee to be determined by the court. The fees are to be
1293 paid from the general revenue fund of the county in which the
1294 individual who is the subject of the petition ~~person with mental~~
1295 ~~retardation~~ resided when the petition was filed.

1296 (h) The agency shall develop and prescribe by rule one or
1297 more standard forms to be used as a guide for members of the
1298 examining committee.

1299 (6) COUNSEL; GUARDIAN AD LITEM.—

1300 (a) The individual who is the subject of the petition must
1301 ~~person with mental retardation shall~~ be represented by counsel
1302 at all stages of the judicial proceeding. If ~~In the event~~ the
1303 individual ~~person~~ is indigent and cannot afford counsel, the
1304 court shall appoint a public defender not less than 20 working
1305 days before the scheduled hearing. The individual's ~~person's~~
1306 counsel shall have full access to the records of the service
1307 provider and the agency. In all cases, the attorney shall
1308 represent the rights and legal interests of the individual
1309 ~~person with mental retardation~~, regardless of who initiates ~~may~~
1310 ~~initiate~~ the proceedings or pays the attorney ~~pay the attorney's~~
1311 fee.

1312 (b) If the attorney, during the course of his or her
1313 representation, reasonably believes that the individual ~~person~~
1314 ~~with mental retardation~~ cannot adequately act in his or her own
1315 interest, the attorney may seek the appointment of a guardian ad
1316 litem. A prior finding of incompetency is not required before a
1317 guardian ad litem is appointed pursuant to this section.



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1318 (7) HEARING.—

1319 (a) The hearing for involuntary admission shall be
1320 conducted, and the order shall be entered, in the county in
1321 which the petition is filed. The hearing shall be conducted in a
1322 physical setting not likely to be injurious to the individual's
1323 ~~person's~~ condition.

1324 (b) A hearing on the petition must be held as soon as
1325 practicable after the petition is filed, but reasonable delay
1326 for the purpose of investigation, discovery, or procuring
1327 counsel or witnesses shall be granted.

1328 (c) The court may appoint a general or special magistrate
1329 to preside. Except as otherwise specified, the magistrate's
1330 proceeding shall be governed by the Florida Rules of Civil
1331 Procedure.

1332 (d) The individual who is the subject of the petition may
1333 ~~person with mental retardation shall be physically present~~
1334 throughout all or part of the entire proceeding. If the
1335 defendant's person's attorney or any other interested party
1336 believes that the individual's person's presence at the hearing
1337 is not in the individual's person's best interest, or good cause
1338 is otherwise shown, the person's presence may be waived once the
1339 court may order the individual to be excluded from the hearing
1340 ~~has seen the person and the hearing has commenced.~~

1341 (e) The individual who is the subject of the petition
1342 ~~person~~ has the right to present evidence and to cross-examine
1343 all witnesses and other evidence alleging the appropriateness of
1344 the individual's person's admission to residential care. Other
1345 relevant and material evidence regarding the appropriateness of
1346 the individual's person's admission to residential services; the



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1347 most appropriate, least restrictive residential placement; and
1348 the appropriate care, treatment, and habilitation of the
1349 individual person, including written or oral reports, may be
1350 introduced at the hearing by any interested person.

1351 (f) The petitioning commission may be represented by
1352 counsel at the hearing. The petitioning commission shall have
1353 the right to call witnesses, present evidence, cross-examine
1354 witnesses, and present argument on behalf of the petitioning
1355 commission.

1356 (g) All evidence shall be presented according to chapter
1357 90. The burden of proof shall be on the party alleging the
1358 appropriateness of the individual's ~~person's~~ admission to
1359 residential services. The burden of proof shall be by clear and
1360 convincing evidence.

1361 (h) All stages of each proceeding shall be stenographically
1362 reported.

1363 (8) ORDER.—

1364 (a) In all cases, the court shall issue written findings of
1365 fact and conclusions of law to support its decision. The order
1366 must state the basis for the findings of fact.

1367 (b) An order of involuntary admission to residential
1368 services may not be entered unless the court finds that:

1369 1. The individual person is mentally retarded or autistic;

1370 2. Placement in a residential setting is the least
1371 restrictive and most appropriate alternative to meet the
1372 individual's ~~person's~~ needs; and

1373 3. Because of the individual's ~~person's~~ degree of mental
1374 retardation or autism, the individual person:

1375 a. Lacks sufficient capacity to give express and informed



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1376 consent to a voluntary application for services pursuant to s.
1377 393.065 and lacks basic survival and self-care skills to such a
1378 degree that close supervision and habilitation in a residential
1379 setting is necessary and, if not provided, would result in a
1380 real and present threat of substantial harm to the individual's
1381 ~~person's~~ well-being; or

1382 b. Is likely to physically injure others if allowed to
1383 remain at liberty.

1384 (c) If the evidence presented to the court is not
1385 sufficient to warrant involuntary admission to residential
1386 services, but the court feels that residential services would be
1387 beneficial, the court may recommend that the individual ~~person~~
1388 seek voluntary admission.

1389 (d) If an order of involuntary admission to residential
1390 services provided by the agency is entered by the court, a copy
1391 of the written order shall be served upon the individual ~~person~~,
1392 the individual's ~~person's~~ counsel, the agency, and the state
1393 attorney and the individual's ~~person's~~ defense counsel, if
1394 applicable. The order of involuntary admission sent to the
1395 agency shall also be accompanied by a copy of the examining
1396 committee's report and other reports contained in the court
1397 file.

1398 (e) Upon receiving the order, the agency shall, within 45
1399 days, provide the court with a copy of the individual's ~~person's~~
1400 family or individual support plan and copies of all examinations
1401 and evaluations, outlining his or her ~~the~~ treatment and
1402 rehabilitative programs. The agency shall document that the
1403 individual ~~person~~ has been placed in the most appropriate, least
1404 restrictive and cost-beneficial residential setting. A copy of



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1405 the family or individual support plan and other examinations and
1406 evaluations shall be served upon the individual ~~person~~ and the
1407 individual's ~~person's~~ counsel at the same time the documents are
1408 filed with the court.

1409 (9) EFFECT OF THE ORDER OF INVOLUNTARY ADMISSION TO
1410 RESIDENTIAL SERVICES.—

1411 (a) An order authorizing an admission to residential care
1412 may not be considered an adjudication of mental incompetency. An
1413 individual ~~A person~~ is not presumed incompetent solely by reason
1414 of the individual's ~~person's~~ involuntary admission to
1415 residential services. An individual ~~A person~~ may not be denied
1416 the full exercise of all legal rights guaranteed to citizens of
1417 this state and of the United States.

1418 (b) Any minor involuntarily admitted to residential
1419 services shall, upon reaching majority, be given a hearing to
1420 determine the continued appropriateness of his or her
1421 involuntary admission.

1422 (10) COMPETENCY.—

1423 (a) The issue of competency shall be separate and distinct
1424 from a determination of the appropriateness of involuntary
1425 admission to residential services for a condition of mental
1426 retardation.

1427 (b) The issue of the competency of an individual who is
1428 mentally retarded ~~a person with mental retardation~~ for purposes
1429 of assigning guardianship shall be determined in a separate
1430 proceeding according to the procedures and requirements of
1431 chapter 744. The issue of the competency of an individual who
1432 has ~~a person with~~ mental retardation or autism for purposes of
1433 determining whether the individual ~~person~~ is competent to



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1434 proceed in a criminal trial shall be determined in accordance
1435 with chapter 916.

1436 (11) CONTINUING JURISDICTION.—The court ~~that~~ ~~which~~ issues
1437 the initial order for involuntary admission to residential
1438 services under this section has continuing jurisdiction to enter
1439 further orders to ensure that the individual ~~person~~ is receiving
1440 adequate care, treatment, habilitation, and rehabilitation,
1441 including psychotropic medication and behavioral programming.
1442 Upon request, the court may transfer ~~the~~ continuing jurisdiction
1443 to the court where the individual ~~a client~~ resides if it is
1444 different than the jurisdiction ~~from~~ where the original
1445 involuntary admission order was issued. An individual ~~A person~~
1446 may not be released from an order for involuntary admission to
1447 residential services except by the order of the court.

1448 (12) APPEAL.—

1449 (a) Any party to the proceeding who is affected by an order
1450 of the court, including the agency, may appeal to the
1451 appropriate district court of appeal within the time and in the
1452 manner prescribed by the Florida Rules of Appellate Procedure.

1453 (b) The filing of an appeal by the individual ordered to be
1454 involuntarily admitted under this section ~~stays the person with~~
1455 ~~mental retardation shall stay~~ admission of the individual ~~person~~
1456 into residential care. The stay shall remain in effect during
1457 the pendency of all review proceedings in Florida courts until a
1458 mandate issues.

1459 (13) HABEAS CORPUS.—At any time and without notice, an
1460 individual ~~any person~~ involuntarily admitted into residential
1461 care, or the individual's ~~person's~~ parent or legal guardian in
1462 his or her behalf, is entitled to file a petition for a writ of



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1463 habeas corpus to question the cause, legality, and
1464 appropriateness of the individual's ~~person's~~ involuntary
1465 admission. Each individual ~~person~~, or the individual's ~~person's~~
1466 parent or legal guardian, shall receive specific written notice
1467 of the right to petition for a writ of habeas corpus at the time
1468 of his or her involuntary placement.

1469 Section 10. Paragraph (a) of subsection (1) of section
1470 393.125, Florida Statutes, is amended to read:

1471 393.125 Hearing rights.—

1472 (1) REVIEW OF AGENCY DECISIONS.—

1473 (a) For Medicaid programs administered by the agency, any
1474 developmental services applicant or client, or his or her
1475 parent, guardian advocate, or authorized representative, may
1476 request a hearing in accordance with federal law and rules
1477 applicable to Medicaid cases and has the right to request an
1478 administrative hearing pursuant to ss. 120.569 and 120.57. The
1479 hearing ~~These hearings~~ shall be provided by the Department of
1480 Children and Family Services pursuant to s. 409.285 and shall
1481 follow procedures consistent with federal law and rules
1482 applicable to Medicaid cases. At the conclusion of the hearing,
1483 the department shall submit its recommended order to the agency
1484 as provided in s. 120.57(1)(k) and the agency shall issue final
1485 orders as provided in s. 120.57(1)(i).

1486 Section 11. Subsection (1) of section 393.23, Florida
1487 Statutes, is amended to read:

1488 393.23 Developmental disabilities centers; trust accounts.—

1489 All receipts from the operation of canteens, vending machines,
1490 hobby shops, sheltered workshops, activity centers, farming
1491 projects, and other like activities operated in a developmental



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1492 disabilities center, and moneys donated to the center, must be
1493 deposited in a trust account in any bank, credit union, or
1494 savings and loan association authorized by the State Treasury as
1495 a qualified depository to do business in this state, if the
1496 moneys are available on demand.

1497 (1) Moneys in the trust account must be expended for the
1498 benefit, education, or welfare of individuals receiving services
1499 from the agency clients. However, if specified, moneys that are
1500 donated to the center must be expended in accordance with the
1501 intentions of the donor. Trust account money may not be used for
1502 the benefit of agency employees or to pay the wages of such
1503 employees. The welfare of individuals receiving services ~~clients~~
1504 includes the expenditure of funds for the purchase of items for
1505 resale at canteens or vending machines; ~~and~~ for the
1506 establishment of, maintenance of, and operation of canteens,
1507 hobby shops, recreational or entertainment facilities, ~~sheltered~~
1508 ~~workshops~~, activity centers, and farming projects; for the
1509 employment wages of individuals receiving services; and for, ~~or~~
1510 other like facilities or programs established at the center for
1511 the benefit of such individuals ~~clients~~.

1512 Section 12. Section 393.28, Florida Statutes, is created to
1513 read:

1514 393.28 Food service and environmental sanitation
1515 standards.—

1516 (1) STANDARDS.—The agency shall adopt sanitation standards
1517 by rule related to food-borne illnesses and environmental
1518 hazards to ensure the protection of individuals served in
1519 facilities licensed or regulated by the agency pursuant to s.
1520 393.067. Such rules may include sanitation requirements for the



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1521 storage, preparation, and serving of food as well as for
1522 detecting and preventing diseases caused by natural and manmade
1523 factors in the environment.

1524 (2) VIOLATIONS.—The agency may impose sanctions pursuant to
1525 s. 393.0673 against any establishment or operator licensed
1526 pursuant to s. 393.067 for violations of sanitary standards.

1527 (3) FOOD AND INSPECTION SERVICES.—The agency shall provide
1528 or contract with another entity for the provision of food
1529 services and for inspection services to enforce food and
1530 environmental sanitation standards.

1531 Section 13. Paragraph (b) of subsection (2) of section
1532 393.502, Florida Statutes, is amended to read:

1533 393.502 Family care councils.—

1534 (2) MEMBERSHIP.—

1535 (b) At least three of the members of the council must be
1536 individuals receiving or waiting to receive services from the
1537 agency ~~consumers~~. One such member shall be an individual a
1538 ~~consumer~~ who has been receiving ~~received~~ services within the 4
1539 years before ~~prior to~~ the date of recommendation, ~~or the legal~~
1540 ~~guardian of such a consumer~~. The remainder of the council
1541 members shall be parents, grandparents, nonpaid full-time
1542 caregivers, nonpaid legal guardians, or siblings of individuals
1543 who have ~~persons with~~ developmental disabilities and who qualify
1544 for services pursuant to this chapter. A nonpaid full-time
1545 caregiver or nonpaid legal guardian may not serve at the same
1546 time as the individual who is receiving care from the caregiver
1547 or who is the ward of the guardian.

1548 Section 14. Section 514.072, Florida Statutes, is amended
1549 to read:



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1550 514.072 Certification of swimming instructors for people
1551 who have developmental disabilities ~~required.~~—Any person working
1552 at a swimming pool who holds himself or herself out as a
1553 swimming instructor specializing in training people who have
1554 developmental disabilities, as defined in s. 393.063
1555 ~~393.063(10)~~, may be certified by the Dan Marino Foundation,
1556 Inc., in addition to being certified under s. 514.071. The Dan
1557 Marino Foundation, Inc., must develop certification requirements
1558 and a training curriculum for swimming instructors for people
1559 who have developmental disabilities and must submit the
1560 certification requirements to the Department of Health for
1561 review ~~by January 1, 2007. A person certified under s. 514.071~~
1562 ~~before July 1, 2007, must meet the additional certification~~
1563 ~~requirements of this section before January 1, 2008. A person~~
1564 ~~certified under s. 514.071 on or after July 1, 2007, must meet~~
1565 ~~the additional certification requirements of this section within~~
1566 ~~6 months after receiving certification under s. 514.071.~~

1567 Section 15. This act shall take effect upon becoming a law.

1568
1569 ===== T I T L E A M E N D M E N T =====

1570 And the title is amended as follows:

1571 Delete everything before the enacting clause
1572 and insert:

1573 A bill to be entitled
1574 An act relating to the Agency for Persons with
1575 Disabilities; amending s. 393.062, F.S.; providing
1576 additional legislative findings relating to the
1577 provision of services for individuals who have
1578 developmental disabilities; reordering and amending s.



1579 393.063, F.S.; revising current definitions and
1580 providing definitions for the terms "adult day
1581 services," "nonwaiver resources," and "waiver";
1582 amending s. 393.065, F.S.; clarifying provisions
1583 relating to eligibility requirements based on
1584 citizenship and state residency; amending s. 393.066,
1585 F.S.; revising provisions relating to community
1586 services and treatment; revising an express list of
1587 services; requiring the agency to promote partnerships
1588 and collaborative efforts to enhance the availability
1589 of nonwaiver services; deleting a requirement that the
1590 agency promote day habilitation services for certain
1591 individuals; amending s. 393.0661, F.S.; revising
1592 provisions relating to eligibility under the Medicaid
1593 waiver redesign; providing that final tier eligibility
1594 be determined at the time a waiver slot and funding
1595 are available; providing criteria for moving an
1596 individual between tiers; deleting a cap on tier one
1597 expenditures for certain individuals; authorizing the
1598 agency and the Agency for Health Care Administration
1599 to adopt rules; deleting certain directions relating
1600 to the adjustment of an individual's cost plan;
1601 providing criteria for reviewing Medicaid waiver
1602 provider agreements, including support coordinators;
1603 deleting obsolete provisions; amending s. 393.0662,
1604 F.S.; providing criteria for calculating an
1605 individual's iBudget; deleting obsolete provisions;
1606 amending s. 393.067, F.S.; requiring that facilities
1607 that are accredited by certain organizations be



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1608 inspected and reviewed by the agency every 2 years;
1609 providing agency criteria for monitoring licensees;
1610 amending s. 393.068, F.S.; conforming a cross-
1611 reference and terminology; amending s. 393.11, F.S.;
1612 clarifying eligibility for involuntary admission to
1613 residential services; amending s. 393.125, F.S.;
1614 requiring the Department of Children and Family
1615 Services to submit its hearing recommendations to the
1616 agency; amending s. 393.23, F.S.; providing that
1617 receipts from the operation of canteens, vending
1618 machines, and other activities may be used to pay
1619 certain wages; creating s. 393.28, F.S.; directing the
1620 agency to adopt sanitation standards by rule;
1621 providing penalties for violations; authorizing the
1622 agency to contract for food services and inspection
1623 services to enforce standards; amending s. 393.502,
1624 F.S.; revising the membership of family care councils;
1625 amending s. 514.072, F.S.; conforming a cross-
1626 reference; deleting an obsolete provision; providing
1627 an effective date.