

By Senator Rodriguez

39-00587A-22

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1                   A bill to be entitled  
2       An act relating to child welfare; amending s. 39.407,  
3       F.S.; authorizing the Department of Children and  
4       Families, under certain circumstances, to place  
5       children in its custody in therapeutic group homes for  
6       residential mental health treatment without prior  
7       court approval; revising definitions; defining the  
8       term "therapeutic group home"; providing that the  
9       department, rather than the Agency for Health Care  
10      Administration, shall appoint qualified evaluators to  
11      conduct suitability assessments of certain children in  
12      the department's custody; specifying qualifications  
13      for evaluators conducting suitability assessments for  
14      placement in a therapeutic group home; revising  
15      requirements for suitability assessments; specifying  
16      when the department must provide a copy of the  
17      assessment to the guardian ad litem and the court;  
18      revising the department's and the agency's rulemaking  
19      authority; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Subsection (6) of section 39.407, Florida  
24       Statutes, is amended to read:

25       39.407 Medical, psychiatric, and psychological examination  
26       and treatment of child; physical, mental, or substance abuse  
27       examination of person with or requesting child custody.—

28       (6) Children ~~who are~~ in the legal custody of the department  
29       may be placed by the department, without prior approval of the

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30 court, in a residential treatment center licensed under s.  
31 394.875, a therapeutic group home, or a hospital licensed under  
32 chapter 395 for residential mental health treatment only  
33 pursuant to this section or may be placed by the court in  
34 accordance with an order of involuntary examination or  
35 involuntary placement entered pursuant to s. 394.463 or s.  
36 394.467. All children placed in a residential treatment program  
37 under this subsection must have a guardian ad litem appointed.

38 (a) As used in this subsection, the term:

39 ~~2.1.~~ "Residential treatment" or "residential treatment  
40 program" means a placement for observation, diagnosis, or  
41 treatment of an emotional disturbance in a residential treatment  
42 center licensed under s. 394.875, a therapeutic group home, or a  
43 hospital licensed under chapter 395.

44 ~~1.2.~~ "Least restrictive alternative" means the treatment  
45 and conditions of treatment that, separately and in combination,  
46 are no more intrusive or restrictive of freedom than reasonably  
47 necessary to achieve a substantial therapeutic benefit or to  
48 protect the child or adolescent or others from physical injury.

49 3. "Suitable for residential treatment" or "suitability"  
50 means a determination concerning a child or adolescent with an  
51 emotional disturbance as defined in s. 394.492(5) or a serious  
52 emotional disturbance as defined in s. 394.492(6) that each of  
53 the following criteria is met:

54 a. The child requires residential treatment.

55 b. The child is in need of a residential treatment program  
56 and is expected to benefit from mental, emotional, or behavioral  
57 health treatment.

58 c. An appropriate, less restrictive alternative to

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59 residential treatment is unavailable.

60 4. "Therapeutic group home" means a 24-hour residential  
61 program providing community-based mental health treatment and  
62 mental health support services to children who meet the criteria  
63 in s. 394.492(5) or (6) in a nonsecure, homelike setting that  
64 meets the requirements of a single-family unit or a community  
65 residential home as defined in s. 419.001. Notwithstanding s.  
66 419.001(1)(a), a therapeutic group home may provide a living  
67 environment for up to 16 unrelated residents.

68 (b) Whenever the department believes that a child in its  
69 legal custody is emotionally disturbed and may need residential  
70 treatment, an examination and suitability assessment must be  
71 conducted by a qualified evaluator ~~who is~~ appointed by the  
72 ~~department~~ Agency for Health Care Administration. This  
73 suitability assessment must be completed before the placement of  
74 the child in a residential treatment program ~~center for~~  
75 ~~emotionally disturbed children and adolescents or a hospital.~~

76 1. The qualified evaluator for placement in a residential  
77 treatment center or a hospital must be a psychiatrist or a  
78 psychologist licensed in this state ~~Florida~~ who has at least 3  
79 years of experience in the diagnosis and treatment of serious  
80 emotional disturbances in children and adolescents and who has  
81 no actual or perceived conflict of interest with any inpatient  
82 facility or residential treatment center or program.

83 2. The qualified evaluator for placement in a therapeutic  
84 group home must be a psychiatrist licensed under chapter 458, a  
85 psychologist licensed under chapter 490, or a mental health  
86 counselor licensed under chapter 491 who has at least 2 years of  
87 experience in the diagnosis and treatment of serious emotional

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88 or behavioral disturbance in children and adolescents and who  
89 has no actual or perceived conflict of interest with any  
90 residential treatment center or program.

91 (c) Consistent with the requirements of this section ~~Before~~  
92 ~~a child is admitted under this subsection,~~ the child shall be  
93 assessed for suitability for ~~residential~~ treatment by a  
94 qualified evaluator who has conducted an ~~a personal~~ examination  
95 and assessment of the child and has made written findings that:

96 1. The child appears to have an emotional disturbance  
97 serious enough to require treatment in a residential treatment  
98 program and is reasonably likely to benefit from the treatment.

99 2. The child has been provided with a clinically  
100 appropriate explanation of the nature and purpose of the  
101 treatment.

102 3. All available modalities of treatment less restrictive  
103 than residential treatment have been considered, and a less  
104 restrictive alternative that would offer comparable benefits to  
105 the child is unavailable.

106  
107 A copy of the written findings of the evaluation and suitability  
108 assessment must be provided to the department, to the guardian  
109 ad litem, and, if the child is a member of a Medicaid managed  
110 care plan, to the plan that is financially responsible for the  
111 child's care in residential treatment, all of whom must be  
112 provided with the opportunity to discuss the findings with the  
113 evaluator.

114 (d) Immediately upon placing a child in a residential  
115 treatment program under this section, the department must notify  
116 the guardian ad litem and the court having jurisdiction over the

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117 child. Within 5 days after the department's receipt of the  
118 assessment, the department shall ~~and must~~ provide the guardian  
119 ad litem and the court with a copy of the assessment by the  
120 qualified evaluator.

121 (e) Within 10 days after the admission of a child to a  
122 residential treatment program, the director of the residential  
123 treatment program or the director's designee must ensure that an  
124 individualized plan of treatment has been prepared by the  
125 program and has been explained to the child, to the department,  
126 and to the guardian ad litem, and submitted to the department.  
127 The child must be involved in the preparation of the plan to the  
128 maximum feasible extent consistent with his or her ability to  
129 understand and participate, and the guardian ad litem and the  
130 child's foster parents must be involved to the maximum extent  
131 consistent with the child's treatment needs. The plan must  
132 include a preliminary plan for residential treatment and  
133 aftercare upon completion of residential treatment. The plan  
134 must include specific behavioral and emotional goals against  
135 which the success of the residential treatment may be measured.  
136 A copy of the plan must be provided to the child, to the  
137 guardian ad litem, and to the department.

138 (f) Within 30 days after admission, the residential  
139 treatment program must review the appropriateness and  
140 suitability of the child's placement in the program. The  
141 residential treatment program must determine whether the child  
142 is receiving benefit toward the treatment goals and whether the  
143 child could be treated in a less restrictive treatment program.  
144 The residential treatment program shall prepare a written report  
145 of its findings and submit the report to the guardian ad litem

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146 and to the department. The department must submit the report to  
147 the court. The report must include a discharge plan for the  
148 child. The residential treatment program must continue to  
149 evaluate the child's treatment progress every 30 days thereafter  
150 and must include its findings in a written report submitted to  
151 the department. The department may not reimburse a facility  
152 until the facility has submitted every written report that is  
153 due.

154 (g)1. The department must submit, at the beginning of each  
155 month, to the court having jurisdiction over the child, a  
156 written report regarding the child's progress toward achieving  
157 the goals specified in the individualized plan of treatment.

158 2. The court must conduct a hearing to review the status of  
159 the child's residential treatment plan no later than 60 days  
160 after the child's admission to the residential treatment  
161 program. An independent review of the child's progress toward  
162 achieving the goals and objectives of the treatment plan must be  
163 completed by a qualified evaluator and submitted to the court  
164 before its 60-day review.

165 3. For any child in residential treatment at the time a  
166 judicial review is held pursuant to s. 39.701, the child's  
167 continued placement in residential treatment must be a subject  
168 of the judicial review.

169 4. If at any time the court determines that the child is  
170 not suitable for continued residential treatment, the court  
171 shall order the department to place the child in the least  
172 restrictive setting that is best suited to meet his or her  
173 needs.

174 (h) After the initial 60-day review, the court must conduct

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175 a review of the child's residential treatment plan every 90  
176 days.

177 (i) The department may adopt rules to administer this  
178 subsection ~~must adopt rules for implementing timeframes for the~~  
179 ~~completion of suitability assessments by qualified evaluators~~  
180 ~~and a procedure that includes timeframes for completing the 60-~~  
181 ~~day independent review by the qualified evaluators of the~~  
182 ~~child's progress toward achieving the goals and objectives of~~  
183 ~~the treatment plan which review must be submitted to the court.~~  
184 ~~The Agency for Health Care Administration must adopt rules for~~  
185 ~~the registration of qualified evaluators, the procedure for~~  
186 ~~selecting the evaluators to conduct the reviews required under~~  
187 ~~this section, and a reasonable, cost-efficient fee schedule for~~  
188 ~~qualified evaluators.~~

189 Section 2. This act shall take effect upon becoming a law.