

By the Committee on Children, Families, and Elder Affairs

586-02886-11

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1 A bill to be entitled
2 An act relating to persons with developmental
3 disabilities; amending s. 393.067, F.S.; prohibiting
4 monitoring requirements that mandate pornographic
5 materials be available in residential facilities that
6 serve clients of the Agency for Persons with
7 Disabilities; amending s. 393.11, F.S.; requiring the
8 court to order a person involuntarily admitted to
9 residential services to be released to the agency for
10 appropriate residential services; forbidding the court
11 from ordering that such person be released directly to
12 a residential service provider; authorizing the agency
13 to transfer a person from one residential setting to
14 another; requiring the agency to notify the committing
15 court of a person's transfer within a specified time;
16 amending s. 916.1093, F.S.; requiring the agency to
17 ensure that there are sufficient community-based
18 placements for defendants charged with sex offenses;
19 amending s. 916.3025, F.S.; requiring that the court
20 order a person involuntarily admitted to residential
21 services after criminal charges have been dismissed be
22 released to the agency for appropriate residential
23 services; creating a task force to develop input for
24 the creation of certain guidelines and procedures for
25 providers of residential services; providing for
26 membership of the task force; requiring the task force
27 to seek input from certain pertinent entities;
28 requiring the Agency for Persons with Disabilities to
29 provide administrative support to the task force;

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30 requiring the task force to submit its findings to the
31 Legislature; providing an effective date.

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33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Subsection (1) of section 393.067, Florida
36 Statutes, is amended to read:

37 393.067 Facility licensure.—

38 (1) The agency shall provide through its licensing
39 authority and by rule license application procedures, provider
40 qualifications, facility and client care standards, requirements
41 for client records, requirements for staff qualifications and
42 training, and requirements for monitoring foster care
43 facilities, group home facilities, residential habilitation
44 centers, and comprehensive transitional education programs that
45 serve agency clients. However, monitoring requirements for
46 foster care facilities, group home facilities, residential
47 habilitation centers, and comprehensive transitional education
48 programs may not mandate that pornographic materials be
49 available in residential facilities that serve the clients of
50 the agency.

51 Section 2. Present paragraph (e) of subsection (8) of
52 section 393.11, Florida Statutes, is redesignated as paragraph
53 (f) and amended, and a new paragraph (e) is added to that
54 subsection, to read:

55 393.11 Involuntary admission to residential services.—

56 (8) ORDER.—

57 (e) If an order of involuntary admission to residential
58 services provided by the agency is entered by the court, the

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59 court shall order that the person be released to the agency for
60 receipt of appropriate residential services and may not order
61 the person to be released directly to a residential service
62 provider.

63 (f) ~~(e)~~ Upon receiving the order, the agency shall, within
64 45 days, provide the court with a copy of the person's family or
65 individual support plan and copies of all examinations and
66 evaluations, outlining the treatment and rehabilitative
67 programs. The agency shall document that the person has been
68 placed in the most appropriate, least restrictive and cost-
69 beneficial residential setting. A copy of the family or
70 individual support plan and other examinations and evaluations
71 shall be served upon the person and the person's counsel at the
72 same time the documents are filed with the court. The agency may
73 transfer a person from one residential setting to another
74 residential setting and must notify the court and the person's
75 counsel of the transfer within 30 days after the transfer is
76 completed.

77 Section 3. Section 916.1093, Florida Statutes, is amended
78 to read:

79 916.1093 Operation and administration; rules.—

80 (1) The department or agency may enter into contracts and
81 do such things as may be necessary and incidental to assure
82 compliance with and to carry out the provisions of this chapter
83 in accordance with the stated legislative intent.

84 (2) The agency shall ensure that there are a sufficient
85 number of civil facilities providing community-based training
86 for defendants charged with sex offenses so that alternative
87 placement options are available. If the agency determines that

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88 there are two or fewer facilities available to provide
89 community-based training for defendants charged with sex
90 offenses, the agency shall immediately procure additional
91 facilities.

92 (3)~~(2)~~ The department and agency are authorized to adopt
93 rules pursuant to ss. 120.536(1) and 120.54 to implement the
94 provisions of this chapter. Such rules must address the use of
95 restraint and seclusion in forensic facilities and must be
96 consistent with recognized best practices; prohibit inherently
97 dangerous restraint or seclusion procedures; establish
98 limitations on the use and duration of restraint and seclusion;
99 establish measures to ensure the safety of clients and staff
100 during an incident of restraint or seclusion; establish
101 procedures for staff to follow before, during, and after
102 incidents of restraint or seclusion; establish professional
103 qualifications of and training for staff who may order or be
104 engaged in the use of restraint or seclusion; provide data
105 reporting and data collection procedures relating to the use of
106 restraint and seclusion; and provide for the documentation of
107 the use of restraint or seclusion in the client's facility
108 record.

109 Section 4. Subsection (3) of section 916.3025, Florida
110 Statutes, is amended to read:

111 916.3025 Jurisdiction of committing court.-

112 (3) The committing court shall consider a petition to
113 involuntarily admit a defendant whose charges have been
114 dismissed to residential services provided by the agency and,
115 when applicable, to continue secure placement of such person as
116 provided in s. 916.303. If a defendant whose criminal charges

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117 have been dismissed is involuntarily committed to residential
118 services provided by the agency, the committing court shall
119 order that the defendant be released to the agency for receipt
120 of appropriate residential services and may not order that the
121 defendant be released directly to a residential service
122 provider. The committing court shall retain jurisdiction over
123 such person so long as he or she remains in secure placement or
124 is on conditional release as provided in s. 916.304. However,
125 upon request, the court may transfer continuing jurisdiction to
126 the court in the circuit where the defendant resides. The
127 defendant may not be released from an order for secure placement
128 except by order of the court.

129 Section 5. The Legislature recognizes the rights of
130 individuals who are developmentally disabled to lead full and
131 rewarding lives. The Legislature also recognizes the state's
132 obligation to protect vulnerable adults from sexual abuse.

133 (1) In recognition of the social, legal, and environmental
134 complexities associated with this issue, the Agency for Persons
135 with Disabilities shall establish a task force to gather input
136 for the creation of guidelines and procedures for providers of
137 residential services relating to sexual activity among the
138 residents of its facilities.

139 (2) The task force shall consist of the following members:

140 (a) The director of the Agency for Persons with
141 Disabilities or his or her designee.

142 (b) The director of Adult Protective Services in the
143 Department of Children and Family Services.

144 (c) The executive director of The Arc of Florida.

145 (d) A family board member of The Arc of Florida appointed

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146 by the executive director of The Arc of Florida.

147 (e) The chair of the Family Care Council Florida.

148 (f) A parent representative from the Family Care Council
149 Florida appointed by the chair of the Family Care Council
150 Florida.

151 (g) A representative from the Developmental Disabilities
152 Council.

153 (h) A representative from Disability Rights Florida.

154 (i) A representative from the Florida courts.

155 (j) A representative from the Florida Prosecuting Attorneys
156 Association.

157 (k) A representative from the Florida Public Defender
158 Association.

159 (l) A staff member of the University Center for Excellence
160 in Developmental Disabilities at the University of South
161 Florida/Center for Inclusive Communities.

162 (m) A self-advocate.

163 (3) The task force shall seek input from self-advocates,
164 family members, universities and colleges, and other pertinent
165 entities.

166 (4) The agency shall provide administrative support to the
167 task force.

168 (5) Members of the task force shall serve without
169 compensation, but are entitled to reimbursement for per diem and
170 travel expenses as provided in s. 112.061, Florida Statutes.

171 (6) The task force shall submit a report of its findings to
172 the President of the Senate and the Speaker of the House of
173 Representatives by November 1, 2011.

174 Section 6. This act shall take effect July 1, 2011.