A bill to be entitled
An act relating to in-person visitation by essential
caregivers; creating ss. 393.131, 400.026, and
429.276, F.S.; defining the term "essential
caregiver"; providing that a resident or client of a
residential facility, a developmental disabilities
center, a direct service provider, a nursing home
facility, or an assisted living facility has the right
to designate an essential caregiver; prohibiting such
facilities, centers, and providers from prohibiting
in-person visitation by a designated essential
caregiver; requiring the Agency for Persons with
Disabilities and the Agency for Health Care
Administration, as applicable, to develop guidelines
to assist facilities, centers, and providers in
establishing certain visitation policies and
procedures; providing requirements for such
guidelines; authorizing facilities, centers, and
providers to revoke an individual's designation as an
essential caregiver under certain circumstances;
prohibiting safety protocols adopted for essential
caregivers from being more stringent than safety
protocols established for staff of a facility, center,
or provider; authorizing facilities, centers, and
providers to suspend visits by essential caregivers
once for a specified period under certain circumstances; requiring visitation policies to allow for in-person visitation by essential caregivers during a suspension on a case-by-case basis under certain circumstances; requiring the applicable agency to dedicate a webpage containing specified information on its website; providing for construction, preemption, and rulemaking; providing an effective date.

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

Section 1. Section 393.131, Florida Statutes, is created to read:

393.131 Essential caregivers; in-person visitation.—
(1) As used in this section, the term "essential caregiver" means a family member, friend, guardian, or other individual designated by a resident or client of a residential facility, including, but not limited to, an intermediate care facility for the developmentally disabled; a developmental disabilities center; or a direct service provider for in-person visits.

(2)(a) A resident or client of a residential facility, a developmental disabilities center, or a direct service provider, or his or her guardian or legal representative, has the right to
designate an essential caregiver. A facility, center, or provider may not prohibit in-person visitation by a resident's or client's designated essential caregiver.

(b) Notwithstanding paragraph (a), the agency shall, by rule, develop guidelines to assist residential facilities, developmental disabilities centers, and direct service providers in establishing essential caregiver visitation policies and procedures. The guidelines must require facilities, centers, and providers to do all of the following:

1. Allow a resident or client, or his or her guardian or legal representative, to designate an essential caregiver for in-person visitation in the same manner that a resident or client would designate a power of attorney.

2. Establish a visitation schedule allowing the essential caregiver to visit the resident or client for at least 2 hours each day.

3. Establish procedures to enable physical contact between the resident or client and essential caregiver.

4. Obtain the signature of the essential caregiver certifying that the caregiver agrees to follow the facility's, center's, or provider's safety protocols, as applicable, and any other rules adopted under this section.

5. Establish a visitor's log.

(c) A residential facility, developmental disabilities center, or direct service provider may revoke an individual's
designation as an essential caregiver if the caregiver violates the facility's, center's, or provider's safety protocols or rules adopted under this section. The safety protocols adopted by the facility, center, or provider for an essential caregiver may not be more stringent than the safety protocols established for the staff of the facility, center, or provider.

(d) A residential facility, developmental disabilities center, or direct service provider may suspend in-person visits by essential caregivers once for no more than 7 days if in-person visitation poses a serious health risk to the residents or clients of the facility, center, or provider. In the event of a suspension, the visitation policy required by this section must allow for in-person visitation by an essential caregiver on a case-by-case basis during the suspension in all of the following circumstances:

1. End-of-life situations.

2. A resident or client who was living with his or her family before recently being admitted to the facility or center is struggling with the change in environment and lack of physical family support.

3. A resident or client is grieving the loss of a friend or family member who recently died.

4. A resident or client needs cueing or encouragement to eat or drink which was previously provided by a family member or
caregiver, and the resident or client is experiencing weight loss or dehydration.

5. A resident or client who used to talk and interact with others is experiencing emotional distress, is seldom speaking, or is crying more frequently than he or she did previously.

6. Any other circumstance the agency deems appropriate.

(3) The agency must dedicate a webpage on its website to explain visitation rights authorized under this section.

(4) This section does not require an essential caregiver to provide necessary care to a resident or client of a residential facility, developmental disabilities center, or direct service provider and such facility, center, or provider may not require an essential caregiver to provide necessary care to the resident or client.

(5) This section prevails over any conflicting or inconsistent provisions of law.

(6) The agency shall adopt rules to implement this section.

Section 2. Section 400.026, Florida Statutes, is created to read:

400.026 Essential caregivers; in-person visitation.—

(1) As used in this section, the term "essential caregiver" means a family member, friend, guardian, or other individual designated by a resident for in-person visits.
(2)(a) A resident of a nursing home facility, or his or her guardian or legal representative, has the right to designate an essential caregiver. A facility may not prohibit in-person visitation by a resident's designated essential caregiver.

(b) Notwithstanding paragraph (a), the agency shall, by rule, develop guidelines to assist nursing home facilities in establishing essential caregiver visitation policies and procedures. The guidelines must require the facilities to do all of the following:

1. Allow a resident, or his or her guardian or legal representative, to designate an essential caregiver for in-person visitation in the same manner that a resident would designate a power of attorney.

2. Establish a visitation schedule allowing the essential caregiver to visit the resident for at least 2 hours each day.

3. Establish procedures to enable physical contact between the resident and essential caregiver.

4. Obtain the signature of the essential caregiver certifying that the caregiver agrees to follow the facility's safety protocols and any other rules adopted under this section.

5. Establish a visitor's log.

(c) A nursing home facility may revoke an individual's designation as an essential caregiver if the caregiver violates the facility's safety protocols or rules adopted under this section. The safety protocols adopted by a nursing home facility...
for an essential caregiver may not be more stringent than safety protocols established for the facility's staff.

(d) A nursing home facility may suspend in-person visits by essential caregivers once for no more than 7 days if in-person visitation poses a serious health risk to the residents of the facility. In the event of a suspension, the visitation policy required by this section must allow for in-person visitation by an essential caregiver on a case-by-case basis during the suspension in all of the following circumstances:

1. End-of-life situations.
2. A resident who was living with his or her family before recently being admitted to the facility is struggling with the change in environment and lack of physical family support.
3. A resident is grieving the loss of a friend or family member who recently died.
4. A resident needs cueing or encouragement to eat or drink which was previously provided by a family member or caregiver, and the resident is experiencing weight loss or dehydration.
5. A resident who used to talk and interact with others is experiencing emotional distress, is seldom speaking, or is crying more frequently than he or she did previously.
6. Any other circumstance the agency deems appropriate.

(3) The agency must dedicate a webpage on its website to explain visitation rights authorized under this section.
(4) This section does not require an essential caregiver to provide necessary care to a resident and a nursing home facility may not require an essential caregiver to provide necessary care to the resident.

(5) This section prevails over any conflicting or inconsistent provisions of law.

(6) The agency shall adopt rules to implement this section.

Section 3. Section 429.276, Florida Statutes, is created to read:

429.276 Essential caregivers; in-person visitation.—
(1) As used in this section, the term "essential caregiver" means a family member, friend, guardian, or other individual designated by a resident for in-person visits.

(2)(a) A resident of an assisted living facility, or his or her guardian or legal representative, has the right to designate an essential caregiver. A facility may not prohibit in-person visitation by the resident's designated essential caregiver.

(b) Notwithstanding paragraph (a), the agency shall, by rule, develop guidelines to assist assisted living facilities in establishing essential caregiver visitation policies and procedures. The guidelines must require the facilities to do all of the following:
1. Allow a resident, or his or her guardian or legal representative, to designate an essential caregiver for in-person visitation in the same manner that a resident would designate a power of attorney.

2. Establish a visitation schedule allowing the essential caregiver to visit the resident for at least 2 hours each day.

3. Establish procedures to enable physical contact between the resident and essential caregiver.

4. Obtain the signature of the essential caregiver certifying that the caregiver agrees to follow the facility's safety protocols and any other rules adopted under this section.

5. Establish a visitor's log.

(c) An assisted living facility may revoke an individual's designation as an essential caregiver if the caregiver violates the facility's safety protocols or rules adopted under this section. The safety protocols adopted by an assisted living facility for an essential caregiver may not be more stringent than safety protocols established for the facility's staff.

(d) An assisted living facility may suspend in-person visits by essential caregivers once for no more than 7 days if in-person visitation poses a serious health risk to the residents of the facility. In the event of a suspension, the visitation policy required by this section must allow for in-person visitation by an essential caregiver on a case-by-case
basis during the suspension in all of the following circumstances:

1. End-of-life situations.

2. A resident who was living with his or her family before recently being admitted to the facility is struggling with the change in environment and lack of physical family support.

3. A resident is grieving the loss of a friend or family member who recently died.

4. A resident needs cueing or encouragement to eat or drink which was previously provided by a family member or caregiver, and the resident is experiencing weight loss or dehydration.

5. A resident who used to talk and interact with others is experiencing emotional distress, is seldom speaking, or is crying more frequently than he or she did previously.

6. Any other circumstance the agency deems appropriate.

(3) The agency must dedicate a webpage on its website to explain visitation rights authorized under this section.

(4) This section does not require an essential caregiver to provide necessary care to a resident and an assisted living facility may not require an essential caregiver to provide necessary care to the resident.

(5) This section prevails over any conflicting or inconsistent provisions of law.

(6) The agency shall adopt rules to implement this
Section 4. This act shall take effect July 1, 2022.