

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

29 Legislature; providing an effective date.

30

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

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

34 393.067 Facility licensure.—

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

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

52 393.11 Involuntary admission to residential services.—

53 (8) ORDER.—

54 (e) If an order of involuntary admission to residential
 55 services provided by the agency is entered by the court, the
 56 court shall order that the person be released to the agency for

57 | receipt of appropriate residential services and may not order
 58 | the person to be released directly to a residential service
 59 | provider.

60 | ~~(f)(e)~~ Upon receiving the order, the agency shall, within
 61 | 45 days, provide the court with a copy of the person's family or
 62 | individual support plan and copies of all examinations and
 63 | evaluations, outlining the treatment and rehabilitative
 64 | programs. The agency shall document that the person has been
 65 | placed in the most appropriate, least restrictive and cost-
 66 | beneficial residential setting. A copy of the family or
 67 | individual support plan and other examinations and evaluations
 68 | shall be served upon the person and the person's counsel at the
 69 | same time the documents are filed with the court. The agency may
 70 | transfer a person from one residential setting to another
 71 | residential setting and must notify the court and the person's
 72 | counsel of the transfer within 30 days after the transfer is
 73 | completed.

74 | Section 3. Section 916.1093, Florida Statutes, is amended
 75 | to read:

76 | 916.1093 Operation and administration; rules.—

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

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

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

89 (3)~~(2)~~ The department and agency are authorized to adopt
90 rules pursuant to ss. 120.536(1) and 120.54 to implement the
91 provisions of this chapter. Such rules must address the use of
92 restraint and seclusion in forensic facilities and must be
93 consistent with recognized best practices; prohibit inherently
94 dangerous restraint or seclusion procedures; establish
95 limitations on the use and duration of restraint and seclusion;
96 establish measures to ensure the safety of clients and staff
97 during an incident of restraint or seclusion; establish
98 procedures for staff to follow before, during, and after
99 incidents of restraint or seclusion; establish professional
100 qualifications of and training for staff who may order or be
101 engaged in the use of restraint or seclusion; provide data
102 reporting and data collection procedures relating to the use of
103 restraint and seclusion; and provide for the documentation of
104 the use of restraint or seclusion in the client's facility
105 record.

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

108 916.3025 Jurisdiction of committing court.—

109 (3) The committing court shall consider a petition to
110 involuntarily admit a defendant whose charges have been
111 dismissed to residential services provided by the agency and,
112 when applicable, to continue secure placement of such person as

113 | provided in s. 916.303. If a defendant whose criminal charges
 114 | have been dismissed is involuntarily committed to residential
 115 | services provided by the agency, the committing court shall
 116 | order that the defendant be released to the agency for receipt
 117 | of appropriate residential services and may not order that the
 118 | defendant be released directly to a residential service
 119 | provider. The committing court shall retain jurisdiction over
 120 | such person so long as he or she remains in secure placement or
 121 | is on conditional release as provided in s. 916.304. However,
 122 | upon request, the court may transfer continuing jurisdiction to
 123 | the court in the circuit where the defendant resides. The
 124 | defendant may not be released from an order for secure placement
 125 | except by order of the court.

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

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

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

137 | (a) The director of the Agency for Persons with
 138 | Disabilities or his or her designee.

139 | (b) The director of Adult Protective Services in the
 140 | Department of Children and Family Services.

- 141 | (c) The executive director of The Arc of Florida.
- 142 | (d) A family board member of The Arc of Florida appointed
- 143 | by the executive director of The Arc of Florida.
- 144 | (e) The chair of the Family Care Council Florida.
- 145 | (f) A parent representative from the Family Care Council
- 146 | Florida appointed by the chair of the Family Care Council
- 147 | Florida.
- 148 | (g) A representative from the Developmental Disabilities
- 149 | Council.
- 150 | (h) A representative from Disability Rights Florida.
- 151 | (i) A representative from the Florida courts.
- 152 | (j) A representative from the Florida Prosecuting
- 153 | Attorneys Association.
- 154 | (k) A representative from the Florida Public Defender
- 155 | Association.
- 156 | (l) A staff member of the University Center for Excellence
- 157 | in Developmental Disabilities at the University of South
- 158 | Florida/Center for Inclusive Communities.
- 159 | (m) A self-advocate.
- 160 | (n) A representative from an intensive behavior
- 161 | residential habilitation provider.
- 162 | (3) The task force shall seek input from self-advocates,
- 163 | family members, universities and colleges, and other pertinent
- 164 | entities.
- 165 | (4) The agency shall provide administrative support to the
- 166 | task force.
- 167 | (5) Members of the task force shall serve without
- 168 | compensation, but are entitled to reimbursement for per diem and

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169 travel expenses as provided in s. 112.061, Florida Statutes.

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

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