

CHAPTER 2010-224

Council Substitute for Committee Substitute for House Bill No. 1073 and House Bill No. 81

An act relating to persons with disabilities; amending s. 393.067, F.S.; revising provisions relating to licensure and standards for facilities and programs for persons with developmental disabilities; amending s. 393.13, F.S.; revising rights for persons with developmental disabilities; amending s. 402.305, F.S.; requiring minimum training for child care personnel to include the identification and care of children with developmental disabilities; creating s. 1003.573, F.S.; requiring that each school prepare an incident report within a specified period after each occasion of student restraint or seclusion; specifying the contents of such report; requiring that each school notify a student's parent or guardian if manual physical restraint or seclusion is used; requiring certain reporting and monitoring; requiring that each school district develop and revise policies and procedures governing the incident reports, data collection, and the monitoring and reporting of such data; prohibiting school personnel from using a mechanical restraint or a manual physical restraint that restricts a student's breathing; prohibiting school personnel from closing, locking, or physically blocking a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms; amending s. 1004.55, F.S.; requiring regional autism centers to provide certain support for serving children with developmental disabilities; creating s. 1012.582, F.S.; requiring the Commissioner of Education to develop recommendations to incorporate instruction relating to developmental disabilities into continuing education or inservice training requirements for instructional personnel; requiring the Department of Education to incorporate the course curricula into existing requirements for such education or training; authorizing the State Board of Education to adopt rules; providing an effective date.

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

Section 1. Paragraph (h) of subsection (4) and subsections (7) and (9) of section 393.067, Florida Statutes, are amended to read:

393.067 Facility licensure.—

(4) The application shall be under oath and shall contain the following:

(h) Certification that the staff of the facility or program will receive training to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients.

(7) The agency shall adopt rules establishing minimum standards for facilities and programs licensed under this section, including rules requiring

facilities and programs to train staff to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients, minimum standards of quality and adequacy of client care, incident reporting requirements, and uniform firesafety standards established by the State Fire Marshal which are appropriate to the size of the facility or of the component centers or units of the program.

(9) The agency may conduct unannounced inspections to determine compliance by foster care facilities, group home facilities, residential habilitation centers, and comprehensive transitional education programs with the applicable provisions of this chapter and the rules adopted pursuant hereto, including the rules adopted for training staff of a facility or a program to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients. The facility or program shall make copies of inspection reports available to the public upon request.

Section 2. Paragraph (a) of subsection (3) of section 393.13, Florida Statutes, is amended to read:

393.13 Treatment of persons with developmental disabilities.—

(3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL DISABILITIES.—The rights described in this subsection shall apply to all persons with developmental disabilities, whether or not such persons are clients of the agency.

(a) Persons with developmental disabilities shall have a right to dignity, privacy, and humane care, including the right to be free from abuse, including sexual abuse, neglect, and exploitation in residential facilities.

Section 3. Paragraph (d) of subsection (2) of section 402.305, Florida Statutes, is amended to read:

402.305 Licensing standards; child care facilities.—

(2) PERSONNEL.—Minimum standards for child care personnel shall include minimum requirements as to:

(d) Minimum training requirements for child care personnel.

1. Such minimum standards for training shall ensure that all child care personnel take an approved 40-clock-hour introductory course in child care, which course covers at least the following topic areas:

- a. State and local rules and regulations which govern child care.
- b. Health, safety, and nutrition.
- c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.

e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.

f. Specialized areas, including computer technology for professional and classroom use and early literacy and language development of children from birth to 5 years of age, as determined by the department, for owner-operators and child care personnel of a child care facility.

g. Developmental disabilities, including autism spectrum disorder and Down syndrome, and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities.

Within 90 days after employment, child care personnel shall begin training to meet the training requirements. Child care personnel shall successfully complete such training within 1 year after the date on which the training began, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. 1007.24 and 1007.25. Exemption from all or a portion of the required training shall be granted to child care personnel based upon educational credentials or passage of competency examinations. Child care personnel possessing a 2-year degree or higher that includes 6 college credit hours in early childhood development or child growth and development, or a child development associate credential or an equivalent state-approved child development associate credential, or a child development associate waiver certificate shall be automatically exempted from the training requirements in sub-subparagraphs b., d., and e.

2. The introductory course in child care shall stress, to the extent possible, an interdisciplinary approach to the study of children.

3. The introductory course shall cover recognition and prevention of shaken baby syndrome, prevention of sudden infant death syndrome, recognition and care of infants and toddlers with developmental disabilities, including autism spectrum disorder and Down syndrome, and early childhood brain development within the topic areas identified in this paragraph.

4. On an annual basis in order to further their child care skills and, if appropriate, administrative skills, child care personnel who have fulfilled the requirements for the child care training shall be required to take an additional 1 continuing education unit of approved inservice training, or 10 clock hours of equivalent training, as determined by the department.

5. Child care personnel shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as

determined by the department, in early literacy and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subparagraph 4.

6. Procedures for ensuring the training of qualified child care professionals to provide training of child care personnel, including onsite training, shall be included in the minimum standards. It is recommended that the state community child care coordination agencies (central agencies) be contracted by the department to coordinate such training when possible. Other district educational resources, such as community colleges and career programs, can be designated in such areas where central agencies may not exist or are determined not to have the capability to meet the coordination requirements set forth by the department.

7. Training requirements shall not apply to certain occasional or part-time support staff, including, but not limited to, swimming instructors, piano teachers, dance instructors, and gymnastics instructors.

8. The department shall evaluate or contract for an evaluation for the general purpose of determining the status of and means to improve staff training requirements and testing procedures. The evaluation shall be conducted every 2 years. The evaluation shall include, but not be limited to, determining the availability, quality, scope, and sources of current staff training; determining the need for specialty training; and determining ways to increase inservice training and ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training. The evaluation methodology shall include a reliable and valid survey of child care personnel.

9. The child care operator shall be required to take basic training in serving children with disabilities within 5 years after employment, either as a part of the introductory training or the annual 8 hours of inservice training.

Section 4. Section 1003.573, Florida Statutes, is created to read:

1003.573 Use of seclusion and restraint on students with disabilities.—

(1) DOCUMENTATION AND REPORTING.—

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint or seclusion. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.
2. The date and time of the event and the duration of the restraint or seclusion.

- 3. The location at which the restraint or seclusion occurred.
- 4. The type of restraint used.
- 5. The name of the person using or assisting in the restraint or seclusion of the student.
- 6. The name of any nonstudent who was present to witness the restraint or seclusion.
- 7. A description of the incident, including:
 - a. The context in which the restraint or seclusion occurred.
 - b. The student’s behavior leading up to and precipitating the decision to use manual physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.
 - c. The specific positive behavioral strategies used to prevent and deescalate the behavior.
 - d. What occurred with the student immediately after the termination of the restraint or seclusion.
 - e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.
 - f. Evidence of steps taken to notify the student’s parent or guardian.
- (c) A school shall notify the parent or guardian of a student each time manual physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent’s or guardian’s signed acknowledgement that he or she was notified of his or her child’s restraint or seclusion.
- (d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually physically restrained or secluded. The school shall obtain, and keep in its records, the parent’s or guardian’s signed acknowledgement that he or she received a copy of the incident report.
- (2) MONITORING.—
 - (a) Monitoring of the use of manual physical restraint or seclusion on students shall occur at the classroom, building, district, and state levels.

(b) Beginning July 1, 2010, documentation prepared as required in subsection (1) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that the school is in session.

(c) The department shall maintain aggregate data of incidents of manual physical restraint and seclusion and disaggregate the data for analysis by county, school, student exceptionality, and other variables. This information shall be updated monthly.

(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.
2. Data collection.
3. Monitoring and reporting of data collected.

(b) Any revisions to such policies and procedures, which must be prepared as part of the school district's special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2011.

(4) PROHIBITED RESTRAINT.—School personnel may not use a mechanical restraint or a manual physical restraint that restricts a student's breathing.

(5) SECLUSION.—School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.

Section 5. Paragraphs (f) and (g) are added to subsection (4) of section 1004.55, Florida Statutes, to read:

1004.55 Regional autism centers.—

(4) Each center shall provide:

(f) Coordination and dissemination of local and regional information regarding available resources for services for children with the developmental disabilities described in subsection (1).

(g) Support to state agencies in the development of training for early child care providers and educators with respect to the developmental disabilities described in subsection (1).

Section 6. Section 1012.582, Florida Statutes, is created to read:

1012.582 Continuing education and inservice training for teaching students with developmental disabilities.—

(1) The Commissioner of Education shall develop recommendations to incorporate instruction regarding autism spectrum disorder, Down syndrome, and other developmental disabilities into continuing education or inservice training requirements for instructional personnel. These recommendations shall address:

(a) Early identification of, and intervention for, students who have autism spectrum disorder, Down syndrome, or other developmental disabilities.

(b) Curriculum planning and curricular and instructional modifications, adaptations, and specialized strategies and techniques.

(c) The use of available state and local resources.

(d) The use of positive behavioral supports to deescalate problem behaviors.

(e) Appropriate use of manual physical restraint and seclusion techniques.

(2) In developing the recommendations, the commissioner shall consult with the State Surgeon General, the Director of the Agency for Persons with Disabilities, representatives from the education community in the state, and representatives from entities that promote awareness about autism spectrum disorder, Down syndrome, and other developmental disabilities and provide programs and services to persons with developmental disabilities, including, but not limited to, regional autism centers pursuant to s. 1004.55.

(3) Beginning with the 2010-2011 school year, the Department of Education shall incorporate the course curricula recommended by the Commissioner of Education, pursuant to subsection (1), into existing requirements for the continuing education or inservice training of instructional personnel. The requirements of this section may not add to the total hours required for continuing education or inservice training as currently established by the department.

(4) The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

Section 7. This act shall take effect July 1, 2010.

Approved by the Governor June 4, 2010.

Filed in Office Secretary of State June 4, 2010.