**SB 1260** by **Bean**; (Similar to H 0699) Florida Centers for Independent Living

| | | | | | | |
|---|---|---|---|---|---|---|
| 937890 | D | | S | CF, Garcia | Delete everything after | 04/01 11:18 AM |

**SB 7068** by **AP**; (Compare to H 7119) Mental Health and Substance Abuse Services

| | | | | | | |
|---|---|---|---|---|---|---|
| 442224 | A | | S L | CF, Garcia | Delete L.209 - 219: | 04/01 02:36 PM |
| 948500 | A | | S L | CF, Garcia | Delete L.342 - 384: | 04/01 02:37 PM |
| 733248 | AA | | S L | CF, Garcia | Delete L.45: | 04/02 11:02 AM |
| 321632 | A | | S L | CF, Garcia | Delete L.465: | 04/01 02:37 PM |
| 579056 | A | | S L | CF, Garcia | btw L.488 - 489: | 04/01 02:37 PM |
| 296318 | A | | S L | CF, Garcia | Delete L.726 - 736: | 04/01 02:37 PM |
| 535464 | A | | S L | CF, Garcia | Delete L.737 - 866. | 04/01 02:38 PM |
| 284604 | A | | S L | CF, Garcia | Delete L.963 - 964. | 04/01 02:38 PM |
| 348368 | A | | S L | CF, Garcia | Delete L.566: | 04/02 09:27 AM |
| 335426 | A | | S L | CF, Garcia | Delete L.594 - 623: | 04/02 09:27 AM |
| 544968 | T | | S L | CF, Garcia | In title, delete L.4: | 04/01 02:36 PM |

**SPB 7078** by **CF**; Child Welfare

**The Florida Senate**

# COMMITTEE MEETING EXPANDED AGENDA

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**
**Senator Sobel, Chair**
**Senator Altman, Vice Chair**

**MEETING DATE:** Thursday, April 2, 2015
**TIME:** 11:30 a.m.—1:00 p.m.
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Sobel, Chair; Senator Altman, Vice Chair; Senators Dean, Detert, Garcia, and Ring

| TAB | OFFICE and APPOINTMENT (HOME CITY) | FOR TERM ENDING | COMMITTEE ACTION |
|---|---|---|---|
| | **Senate Confirmation Hearing:** A public hearing will be held for consideration of the below-named executive appointment to the office indicated. | | |
| | **Secretary of Elderly Affairs** | | |
| 1 | Verghese, Samuel P. (Tallahassee) | Pleasure of Governor | |

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|---|---|
| 2 | **SB 1260**<br>Bean<br>(Similar H 699) | Florida Centers for Independent Living; Requiring that a specified agreement be maintained; renaming the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program; requiring the association, in consultation with the advisory committee, to adopt and revise certain policies and procedures; requiring the association to provide administrative support to facilitate the activities of the advisory committee; providing that certain volunteers for centers for independent living do not have to undergo background screening, etc.<br><br>CF 04/02/2015<br>AED<br>FP | |
| 3 | **SB 7068**<br>Appropriations<br>(Compare H 7119, S 7070) | Mental Health and Substance Abuse Services; Revising the definition of “mental illness” to include dementia and traumatic brain injuries; requiring the Agency for Health Care Administration and the Department of Children and Families to develop a plan to obtain federal approval for increasing the availability of federal Medicaid funding for behavioral health care; requiring that, by a specified date, the department modify certain licensure rules and procedures, etc.<br><br>CF 04/02/2015 | |
| | Consideration of proposed bill: | | |

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|---|---|
| 4 | **SPB 7078** | Child Welfare; Authorizing critical incident rapid response teams to review cases of child deaths occurring during an open investigation; requiring case staffing when medical neglect is substantiated; requiring an epidemiological child abuse death assessment and prevention system; providing intent for the operation of and interaction between the state and local death review committees, etc. | |

Other Related Meeting Documents

The Florida Senate

# Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Samuel P. Verghese

Secretary of Elderly Affairs

## NOTICE OF HEARING

TO: Mr. Samuel P. Verghese

YOU ARE HEREBY NOTIFIED that the Committee on Children, Families, and Elder Affairs of the Florida Senate will conduct a hearing on your executive appointment on Thursday, March 26, 2015, in 301 Senate Office Building, commencing at 9:00 a.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 23rd day of March, 2015

Committee on Children, Families, and Elder Affairs

Eleanor Sobel

Senator Eleanor Sobel
As Chair and by authority of the committee

cc: Members, Committee on Children, Families, and Elder Affairs
Office of the Sergeant at Arms

Amended (9)

640

# STATE OF FLORIDA
# DEPARTMENT OF STATE
## Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

***Samuel P. Verghese***

is duly appointed

**Secretary,**
**Department of Elderly Affairs**

for a term beginning on the
Sixth day of January, A.D., 2015,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Twenty-Sixth day of February, A.D., 2015.*

Ken Detzner

Secretary of State

DSDE 99 (3/03)

Amended

# RICK SCOTT
GOVERNOR

15 FEB 25 PM 1:1

DIV. OF ELECTIONS
SECRETARY OF STATE

February 24, 2015

Secretary Kenneth W. Detzner
Department of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 20.41, Florida Statutes:

Secretary Samuel Paul Verghese
856 Willow Avenue
Tallahassee, Florida 32303

as Secretary of the Department of Elder Affairs, subject to confirmation by the Senate. This appointment is effective January 6, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

Rick Scott
Governor

RS/vh

# OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2015 FEB -9 PM 1:40
DIVISION OF ELECTIONS
TALLAHASSEE, FL

**STATE OF FLORIDA**

**County of** Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Secretary, Florida Department of Elder Affairs

(Title of Office)

on which I am now about to enter, so help me God.

**[NOTE: If you affirm, you may omit the words "so help me God." *See* § 92.52, Fla. Stat.]**

*Signature*

*Sworn to and subscribed before me this* 6th *day of* February, 2015.

*Signature of Officer Administering Oath or of Notary Public*

DANIELLE C. BIST
Commission # EE 107722
Expires June 28, 2015
Bonded Thru Troy Fain Insurance 800-385-7019

Danielle C. Bist

*Print, Type, or Stamp Commissioned Name of Notary Public*

*Personally Known* ☑ ***OR*** *Produced Identification* ☐

*Type of Identification Produced* _____

---

# ACCEPTANCE

**I accept the office listed in the above Oath of Office.**

Mailing Address: ☑ Home ☐ Office

856 Willow Avenue

Street or Post Office Box

Tallahassee, FL, 32303

City, State, Zip Code

Samuel P. Verghese

**Print name as you desire commission issued**

**Signature**

**DS-DE 56 (Rev. 02/10)**

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

| | |
|---|---|
| BILL: | SB 1260 |
| INTRODUCER: | Senator Bean |
| SUBJECT: | Florida Centers for Independent Living |
| DATE: | March 27, 2015 |
| REVISED: | |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Crosier | Hendon | CF | **Pre-meeting** |
| 2. | | | AED | |
| 3. | | | FP | |

## I. Summary:

SB 1260 renames the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendance Services and Employment Assistance Program. The bill also expands the scope of, and support and services provided by, the program. An advisory committee is established and the Florida Association for Independent Living will provide administrative support. Additionally, the bill allows volunteers on an intermittent basis for less than 40 hours per week under certain conditions.

The bill has an effective date of July 1, 2015, and the fiscal impact is indeterminate.

## II. Present Situation:

### Personal Care Attendance Program

Sections 413.402 and 413.4021, F.S., establish and provide a specific funding source for a personal care attendant program (PCA program) to provide personal care attendants to eligible persons with severe and chronic disabilities. The personal care attendant program was established as a pilot in 2002[1] and made permanent and statewide in 2005.[2] Currently, there are 16 Centers for Independent Living (CILS) operating in Florida. The CILS provided independent living services to 21,938 people from October 1, 2013 to September 30, 2014.[3]

Pursuant to s. 413.402, F.S., the Florida Endowment Foundation for Vocational Rehabilitation (FEFVR, also known as the Able Trust)[4] is required to enter into an agreement with the Florida

[1] Chapter 2002-286, L.O.F.
[2] Chapter 2005-172, L.O.F.
[3] *See* E-mail from Tonya Cooper, Legislative Affairs Director, Florida Department of Education (March 30, 2015) (on filed with the Senate Committee on Children, Families, and Elder Affairs).
[4] *See* http://www.abletrust.org/links/AnnRept_011.pdf (last visited March 30, 2015)

Association for Centers for Independent Living (FACIL) to administer the program. The administrative expense of FACIL is paid from funds deposited with FEFVR pursuant to the Tax Collection Enforcement Diversion Program[5] and the Motorcycle Specialty License Plate program.[6]

Persons eligible to participate in the program must:

- Be at least 18 years of age, a legal resident of this state and significantly and chronically disabled;
- Require a personal care attendant for assistance with or support for at least two activities of daily living such as bathing and dressing and as defined in s. 429.02, F.S.;
- Require a personal care attendant in order to maintain substantial gainful employment; and
- Be able to acquire and direct a personal care attendant.

Training for program participants on hiring and managing a personal care attendant shall be provided by FACIL. Additionally, FACIL, in cooperation with the Department of Revenue (DOR) and the Florida Prosecuting Attorneys Association (FPAA) are responsible for the selection of the judicial circuits in which to operate the program.

There are two funding sources for the PCA program:

- Tax Collection Enforcement Diversion Program; and
- Fees from the Motorcycle Specialty License Plate.[7]

***Tax Collection Enforcement Diversion Program***

In conjunction with the establishment of the PCA program, DOR was directed, in cooperation with FACIL and FPAA, to select judicial circuits in which to operation a tax collection enforcement diversion program ("tax diversion program") to collect unpaid sales taxes from delinquent business owners.[8] Fifty percent of the collections from the tax diversion program are deposited into the operating account of FEFVR to be used to operate the PCA program and to contract with the state attorneys participating in the tax diversion program.[9] Sixteen centers in all 20 circuits participate in the tax diversion program.[10]

***Motorcycle Specialty (Bikers Care) License Plate Fees***

The Department of Highway Safety and Motor Vehicles (DHSMV) offers a specialty tax to any owner or lessee of a motorcycle who chooses to pay the additional cost.[11] DHSMV collects an annual use fee of $20 from the sale of each motorcycle specialty license plate and distributes the fees to the Able Trust. The Able Trust is permitted to retain a maximum of 10 percent of the funds for administrative costs and distribute the remaining funds as follows:

- Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund;

[5] Section 413.4021(1), F.S.
[6] Section 320.08068(4)(d), F.S.
[7] Sections 413.4021(1) and 320.08068(4)(d), F.S.
[8] Section 413.4021, F.S.
[9] Section 413.4021(1), F.S. The contract amount for each state attorney cannot exceed $50,000.
[10] *See* http://rehabworks.org/cil_map.shtml (last visited on March 30, 2015). A copy of the map is on filed with the Senate Committee on Children, Families, and Elder Affairs.
[11] Section 320.08068(2), F.S.

- Twenty percent to Prevent Blindness Florida;
- Twenty percent to the Blind Services Foundation of Florida;
- Twenty percent to FEFVR to support the PCA program; and
- Twenty percent to FACIL.[12]

**Background Screening Requirements for Service Providers**

Service providers are persons or entities who provide employment services, supported employment services, independent living services, self-employment services, personal assistance services, vocational evaluation or tutorial services, or rehabilitation technology services on a contractual or fee-for-service basis to vulnerable persons.[13] Service providers must register with the Division of Vocational Rehabilitation (DVR). As a condition of registration, level 2 background screening pursuant to s. 435, F.S., must be conducted by DVR on certain individuals and rescreening of these individuals must occur every 5 years following the initial screening.[14]

## III. Effect of Proposed Changes:

**Section 1** amends s. 413.402, F.S., to rename the James Patrick Memorial Work Incentive Personal Attendant Services Program to the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program. In addition to the provision of personal care attendants, other support and services necessary to maintain competitive employment or self-employment are available to eligible persons in the program. This section also directs FACIL to provide training to program participants on other self-advocacy skills needed to effectively access and manage the support and services provided by the program.

This section establishes an advisory committee to replace the oversight group that is currently charged with the authority to adopt and revise policies and procedures for the governance of the operation of the program. The advisory committee, in consultation with FACIL, is to make recommendations on the development and revision of policies and procedures related to the provision of services in the program.

**Section 2** amends s. 413.208, F.S., to allow a volunteer for a center for independent living, who assists on an intermittent basis for less than 40 hours per month and does not have a disqualifying offense recorded in the clearinghouse created by s. 435.12, F.S., to provide services to a vulnerable person. However, a person who has been subject to a level 2 background screening must be present and have the volunteer within line of sight while the volunteer is providing services to the vulnerable person. If a prospective volunteer has been recorded in the clearinghouse, the division must check the clearinghouse to determine whether the volunteer has a disqualifying offense and, if a disqualifying offense is indicated, the volunteer is not eligible for the exemption created under this section.

**Section 3** amends s. 320.08068, F.S., to change the name of the entity receiving 20 percent of the funds distributed by the Able Trust to the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program.

[12] Section 320.08069(4), F.S.
[13] Section 413.20(20), F.S.
[14] Section 413.208(1), F.S.

**Section 4** provides an effective date of July 1, 2015, for the bill.

## IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

## V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

SB 1260 does not increase the funds raised through the Tax Collection Enforcement Diversion Program and the Motorcycle Specialty License Plate Program; however, it does expand the scope of services to include employment assistance to eligible program participants. The potential savings from increased employment of individuals with severe and chronic disabilities may be seen in reduced long-term care costs.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 413.402, 413.208 and 320.08068, F.S.

## IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (2) of section 413.208, Florida Statutes, is amended to read:

413.208 Service providers; quality assurance; fitness for responsibilities; background screening.—

(2)

(b) Level 2 background screening pursuant to chapter 435 is

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not required for the following persons:

1. A licensed physician, nurse, or other professional who is licensed by the Department of Health and who has undergone fingerprinting and background screening as part of such licensure if providing a service that is within the scope of her or his licensed practice.

2. A relative of the vulnerable person receiving services. For purposes of this section, the term "relative" means an individual who is the father, mother, stepfather, stepmother, son, daughter, brother, sister, grandmother, grandfather, great-grandmother, great-grandfather, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister of the vulnerable person.

3. A volunteer for a center for independent living designated in the state plan for independent living developed pursuant to Title VII(A) of the Rehabilitation Act of 1973, as amended, who assists on an intermittent basis for less than 10 hours per month does not have to be screened if a provider's employee is always present and has the volunteer within his or her line of sight.

Section 2. Section 413.402, Florida Statutes, is amended to read:

413.402 Personal care attendant and employment assistance program.—The Florida Endowment Foundation for Vocational Rehabilitation shall maintain ~~enter into~~ an agreement~~, no later than October 1, 2008,~~ with the Florida Association of Centers for Independent Living to administer the James Patrick Memorial

Work Incentive Personal Attendant Services and Employment Assistance Program. The program shall ~~to~~ provide personal care attendants and other support and services necessary to enable ~~to~~ persons eligible under subsection (2) who have severe and chronic disabilities of any kind to obtain or maintain competitive employment, including self-employment ~~all kinds and who are eligible under subsection (1)~~. ~~Effective July 1, 2008,~~ The Florida Association of Centers for Independent Living shall receive 12 percent of the funds ~~paid to or on behalf of participants from funds to be~~ deposited with the Florida Endowment Foundation for Vocational Rehabilitation pursuant to ss. 320.08068(4)(d) and 413.4021(1) to administer the program. ~~For the purpose of ensuring continuity of services, a memorandum of understanding shall be executed between the parties to cover the period between July 1, 2008, and the execution of the final agreement.~~

(1) As used in this section, the term "competitive employment" means employment in the public or private sector earning comparable wages and benefits, consistent with the person's qualifications and experience, in comparable working conditions to those experienced by the general workforce in that industry or profession.

(2)~~(1)~~ In order to be eligible to participate in the program, a person must meet the following requirements:

(a) Be at least 18 years of age, be a legal resident of this state, and be significantly and chronically disabled.~~;~~

(b) As determined by a physician, psychologist, or psychiatrist, require a personal care attendant for assistance with or support for at least two activities of daily living as

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defined in s. 429.02.~~, as determined by a physician, psychologist, or psychiatrist;~~

(c) Require a personal care attendant and may require other support and services, in order to accept an offer of imminent employment, commence working, or ~~a job or~~ maintain competitive ~~substantial gainful~~ employment.~~; and~~

(d) Be able to acquire and direct the support and services provided pursuant to this section, including the services of a personal care attendant.

(3)~~(2)~~(a) The Florida Association of Centers for Independent Living shall provide training, as appropriate, to program participants on hiring and managing a personal care attendant and other self-advocacy skills needed to effectively access and manage the support and services provided under this section. ~~and,~~

(b) In consultation ~~cooperation~~ with the advisory group established in ~~oversight group described in~~ paragraph (c), the Florida Association of Centers for Independent Living shall ~~(b),~~ adopt and revise the policies and procedures governing the operation of the ~~personal care attendant~~ program and the training ~~program~~ required by paragraph (a).

(c) An advisory group is established to make recommendations on the development and revision of policies and procedures related to the provision of services pursuant to this section. The membership of the advisory committee must

~~(b) The oversight group shall~~ include, but need not be limited to, a member of the Florida Association of Centers for Independent Living, a person who is participating in the program, and one representative each from the Department of

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Revenue, the Department of Children and Families, the Division of Vocational Rehabilitation in the Department of Education, the Medicaid program in the Agency for Health Care Administration, the Florida Endowment Foundation for Vocational Rehabilitation, and the Brain and Spinal Cord Injury Program in the Department of Health.

Section 3. Subsection (1) of section 413.4021, Florida Statutes, is amended to read:

413.4021 Program participant selection; tax collection enforcement diversion program.—The Department of Revenue, in coordination with the Florida Association of Centers for Independent Living and the Florida Prosecuting Attorneys Association, shall select judicial circuits in which to operate the program. The association and the state attorneys' offices shall develop and implement a tax collection enforcement diversion program, which shall collect revenue due from persons who have not remitted their collected sales tax. The criteria for referral to the tax collection enforcement diversion program shall be determined cooperatively between the state attorneys' offices and the Department of Revenue.

(1) Notwithstanding the provisions of s. 212.20, 50 percent of the revenues collected from the tax collection enforcement diversion program shall be deposited into the special reserve account of the Florida Endowment Foundation for Vocational Rehabilitation, to be used to administer the personal care attendant program and to contract with the state attorneys participating in the tax collection enforcement diversion program in an amount of not more than $75,000 ~~$50,000~~ for each state attorney.

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Section 4. Paragraph (d) of subsection (4) of section 320.08068, Florida Statutes, is amended to read:

320.08068 Motorcycle specialty license plates.—

(4) A license plate annual use fee of $20 shall be collected for each motorcycle specialty license plate. Annual use fees shall be distributed to The Able Trust as custodial agent. The Able Trust may retain a maximum of 10 percent of the proceeds from the sale of the license plate for administrative costs. The Able Trust shall distribute the remaining funds as follows:

(d) Twenty percent to the Foundation for Vocational Rehabilitation to support the James Patrick Memorial Work Incentive Personal ~~Care~~ Attendant Services and Employment Assistance Program pursuant to s. 413.402.

Section 5. This act shall take effect July 1, 2015.

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to Florida Centers for Independent Living; amending s. 413.208, F.S.; providing that certain volunteers for centers for independent living do not have to undergo background screening; amending s. 413.402, F.S.; requiring that a specified agreement be maintained; renaming the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal


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Attendant Services and Employment Assistance Program; expanding the scope of, and support and services provided by, the program; defining a term; revising eligibility requirements; requiring the association, in consultation with the advisory group, to adopt and revise certain policies and procedures; replacing an existing oversight group with an advisory group; amending s. 413.4021, F.S.; revising the maximum amount of specified funds for each attorney which may be used to administer the personal attendant program and to contract with the state attorneys participating in the tax collection enforcement diversion program; amending s. 320.08068, F.S.; conforming a provision to changes made by the act; providing an effective date.

**By** Senator Bean

4-00479B-15 20151260__

A bill to be entitled

An act relating to Florida Centers for Independent Living; amending s. 413.402, F.S.; requiring that a specified agreement be maintained; renaming the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program; expanding the scope of, and support and services provided by, the program; defining a term; revising eligibility requirements; requiring the association, in consultation with the advisory committee, to adopt and revise certain policies and procedures; replacing an existing oversight group with an advisory committee; requiring that a member of the advisory committee be appointed by the association chair; requiring the association to provide administrative support to facilitate the activities of the advisory committee; amending s. 413.208, F.S.; providing that certain volunteers for centers for independent living do not have to undergo background screening; providing an exception to the volunteer screening exemption for volunteers who have a disqualifying offense recorded in the clearinghouse established pursuant to s. 435.12, F.S.; amending s. 320.08068, F.S.; conforming a provision to changes made by the act; providing an effective date.

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







4-00479B-15 20151260__

Section 1. Section 413.402, Florida Statutes, is amended to read:

413.402 Personal care attendant and employment assistance program.—The Florida Endowment Foundation for Vocational Rehabilitation shall maintain ~~enter into~~ an agreement~~, no later than October 1, 2008,~~ with the Florida Association of Centers for Independent Living to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program. The program shall ~~to~~ provide personal care attendants and other support and services necessary to enable ~~to~~ persons eligible under subsection (2) who have severe and chronic disabilities of any kind to obtain or maintain competitive employment or self-employment. Such services may include, but are not limited to, assistive technology and transportation. ~~all kinds and who are eligible under subsection (1). Effective July 1, 2008,~~ The Florida Association of Centers for Independent Living shall receive 12 percent of the funds ~~paid to or on behalf of participants from funds to be~~ deposited with the Florida Endowment Foundation for Vocational Rehabilitation pursuant to ss. 320.08068(4)(d) and 413.4021(1) to administer the program. ~~For the purpose of ensuring continuity of services, a memorandum of understanding shall be executed between the parties to cover the period between July 1, 2008, and the execution of the final agreement.~~

(1) As used in this section, the term "competitive employment" means employment in the public or private sector earning comparable wages and benefits, consistent with the person's qualifications and experience, in comparable working conditions to those experienced by the general workforce in that

industry or profession.

(2) ~~(1)~~ In order to be eligible to participate in the program, a person must meet the following requirements:

(a) Be at least 18 years of age, be a legal resident of this state, and be significantly and chronically disabled. ~~,~~

(b) As determined by a physician, psychologist, or psychiatrist, require a personal care attendant for assistance with or support for at least two activities of daily living as defined in s. 429.02. ~~, as determined by a physician, psychologist, or psychiatrist;~~

(c) Require a personal care attendant and may require other support and services, or a combination thereof, in order to obtain and ~~accept a job or~~ maintain substantial gainful employment. ~~; and~~

(d) Be able to acquire and direct the support and services provided pursuant to this section, including the services of a personal care attendant.

(3) ~~(2)~~ (a) The Florida Association of Centers for Independent Living shall provide training, as appropriate, to program participants on hiring and managing a personal care attendant and other self-advocacy skills needed to effectively access and manage the support and services provided under this section. ~~and,~~

(b) In consultation ~~cooperation~~ with the advisory committee established in ~~oversight group described in~~ paragraph (c), the Florida Association of Centers for Independent Living shall ~~(b),~~ adopt and revise the policies and procedures governing the operation of the ~~personal care attendant~~ program and the training ~~program~~ required by paragraph (a).







(c) An advisory committee is established to make recommendations on the development and revision of policies and procedures related to the provision of services pursuant to this section. The membership of the advisory committee must

~~(b) The oversight group shall~~ include, but need not be limited to, a member of, and a program participant appointed by the chair of, the Florida Association of Centers for Independent Living, ~~a person who is participating in the program,~~ and one representative each from the Department of Revenue, the Department of Children and Families, the Division of Vocational Rehabilitation in the Department of Education, the Medicaid program in the Agency for Health Care Administration, the Florida Endowment Foundation for Vocational Rehabilitation, and the Brain and Spinal Cord Injury Program in the Department of Health. The Florida Association of Centers for Independent Living shall provide administrative support to the advisory committee.

Section 2. Paragraph (b) of subsection (2) of section 413.208, Florida Statutes, is amended to read:

413.208 Service providers; quality assurance; fitness for responsibilities; background screening.—

(2)

(b) Level 2 background screening pursuant to chapter 435 is not required for the following persons:

1. A licensed physician, nurse, or other professional who is licensed by the Department of Health and who has undergone fingerprinting and background screening as part of such licensure if providing a service that is within the scope of her or his licensed practice.

2. A relative of the vulnerable person receiving services. For purposes of this section, the term "relative" means an individual who is the father, mother, stepfather, stepmother, son, daughter, brother, sister, grandmother, grandfather, great-grandmother, great-grandfather, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister of the vulnerable person.

3. A volunteer for a center for independent living designated in the state plan for independent living developed pursuant to Title VII(A) of the Rehabilitation Act of 1973, as amended, who assists on an intermittent basis for less than 40 hours per month and does not have a disqualifying offense recorded in the clearinghouse created by s. 435.12, provided that a person who has been screened pursuant to the requirements of this section is always present and has the volunteer within his or her line of sight while the volunteer provides services involving a vulnerable person as defined in s. 435.02, including direct contact or access to the vulnerable person's living quarters or personal property. The provider must determine if information regarding a prospective volunteer is recorded in the clearinghouse established pursuant to s. 435.12. If the provider determines that information concerning a prospective volunteer has been recorded in the clearinghouse, the provider must request an agency review through the clearinghouse, and the division must check the clearinghouse to determine whether the volunteer has a disqualifying offense as defined in this section. If a disqualifying offense is indicated in the





clearinghouse, the division shall notify the provider that the volunteer is not eligible for the exemption created by this subsection.

Section 3. Paragraph (d) of subsection (4) of section 320.08068, Florida Statutes, is amended to read:

320.08068 Motorcycle specialty license plates.—

(4) A license plate annual use fee of $20 shall be collected for each motorcycle specialty license plate. Annual use fees shall be distributed to The Able Trust as custodial agent. The Able Trust may retain a maximum of 10 percent of the proceeds from the sale of the license plate for administrative costs. The Able Trust shall distribute the remaining funds as follows:

(d) Twenty percent to the Foundation for Vocational Rehabilitation to support the James Patrick Memorial Work Incentive Personal ~~Care~~ Attendant Services and Employment Assistance Program pursuant to s. 413.402.

Section 4. This act shall take effect July 1, 2015.

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 7068

INTRODUCER: Appropriations Committee

SUBJECT: Mental Health and Substance Abuse Services

DATE: March 30, 2015 REVISED:

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| . | | Kynoch | | **AP SPB 7068 as introduced** |
| 1. | Hendon | Hendon | CF | **Pre-meeting** |
| 2. | | | | |
| 3. | | | | |

## I. Summary:

SB 7068 reforms the delivery and funding of mental health and substance abuse services, referred to as behavioral health services. The bill requires the Agency for Health Care Administration (AHCA) and the Department of Children and Families (DCF) to develop a plan by November 1, 2015, to apply for and obtain federal approval to increase Medicaid funding for behavioral health care.

To prepare for such approval, the bill reorganizes behavioral health managing entities.[1] The bill requires managing entities that contract for publically-funded mental health and substance abuse services to create a coordinated care organization in each region of the state. The coordinated care organization will be a network of behavioral health care providers offering a comprehensive range of services and capable of integrating behavioral health care and primary care. The structure of the governing boards of the managing entities are revised. The bill revises criteria for priority populations to be observed when the demand for publically-funded behavioral health services exceeds resources.

The bill requires the DCF to modify licensure rules to create a consolidated license for a behavioral health care provider that offers multiple mental health and substance abuse services. The bill repeals obsolete statutes relating to behavioral health care. The bill may result in a positive fiscal impact by increasing resources for behavioral health care if federal approval is obtained to increase Medicaid funding.

[1] *See* s. 394.9082, F.S. A managing entity is a not-for-profit corporation organized in Florida which is under contract with the DCF on a regional basis to manage the day-to-day operational delivery of behavioral health services through an organized system of care and a network of providers who are contracted with the managing entity to provide a comprehensive array of emergency, acute care, residential, outpatient, recovery support, and consumer support services related to behavioral health.

The bill has an effective date of July 1, 2015.

## II. Present Situation:

### Mental Health and Substance Abuse

Mental illness creates enormous social and economic costs.[2] Unemployment rates for persons with mental disorders are high relative to the overall population.[3] People with severe mental illness have exceptionally high rates of unemployment, between 60 percent and 100 percent.[4] Mental illness increases a person's risk of homelessness in America threefold.[5] Studies show that approximately 33 percent of our nation's homeless live with a serious mental disorder, such as schizophrenia, for which they are not receiving treatment.[6] Often the combination of homelessness and mental illness leads to incarceration, which further decreases a person's chance of receiving proper treatment and leads to future re-offenses.[7]

According to the National Alliance on Mental Illness (NAMI), approximately 50 percent of individuals with severe mental health disorders are affected by substance abuse.[8] NAMI also estimates that 29 percent of all people diagnosed as mentally ill abuse alcohol or other drugs.[9] When mental health disorders are left untreated, substance abuse is likely to increase. When substance abuse increases, mental health symptoms often increase as well or new symptoms may be triggered. This could also be due to discontinuation of taking prescribed medications or the contraindications for substance abuse and mental health medications. When taken with other medications, mental health medications can become less effective.[10]

### Behavioral Health Managing Entities

In 2008, the Legislature required the DCF to implement a system of behavioral health managing entities that would serve as regional agencies to manage and pay for mental health and substance abuse services.[11] Prior to this time, the DCF, through its regional offices, contracted directly with behavioral health service providers. The Legislature found that a management structure that places the responsibility for publicly-financed behavioral health treatment and prevention services within a single private, nonprofit entity at the local level, would promote improved access to care, promote service continuity, and provide for more efficient and effective delivery

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[2] Mental Illness: The Invisible Menace, *Economic Impact* http://www.mentalmenace.com/economicimpact.php
[3] Mental Illness: The Invisible Menace, *More impacts and facts* http://www.mentalmenace.com/impactsfacts.php
[4] *Id.*
[5] Family Guidance Center, *How does Mental Illness Impact Rates of Homelessness?* (February 4, 2014) *available at* http://www.familyguidance.org/how-does-mental-illness-impact-rates-of-homelessness/
[6] *Id.*
[7] *Id.*
[8] Donna M. White, LPCI, CACP, Psych Central.com, *Living with Co-Occurring Mental & Substance Abuse Disorders,* (October 2, 2013) *available at* http://psychcentral.com/blog/archives/2013/10/02/living-with-co-occurring-mental-substance-abuse-disorders/
[9] *Id.*
[10] *Id.*
[11] *See* s. 394.9082, F.S., as created by Chapter 2008-243, Laws of Fla.

of substance abuse and mental health services. There are currently seven managing entities across the state.[12]

**Florida Medicaid**

The Medicaid program is a partnership between the federal and state governments to provide medical care to low income pregnant women, children and disabled persons. Each state operates its own Medicaid program under a state plan that must be approved by the federal Centers for Medicare and Medicaid Services. The state plan outlines Medicaid eligibility standards, policies, and reimbursement methodologies.

Florida Medicaid is administered by the AHCA and is financed with federal and state funds. The DCF determines eligibility for the Medicaid program and transmits that information to the AHCA. The AHCA is designated as the single state Medicaid agency and has the lead responsibility for the overall program.[13]

Over 3.7 million Floridians are currently enrolled in Medicaid[14] and the program's estimated expenditures for the 2014-2015 fiscal year are $23.4 billion.[15] The federal government currently pays 59.56 percent of the costs of Medicaid services with the state paying 40.44 percent. Florida has the fourth largest Medicaid program in the country.[16]

Medicaid currently covers:
- 20 percent of Florida's population;
- 27 percent of Florida's children;
- 62.2 percent of Florida's births; and
- 69 percent of Florida's nursing homes days.[17]

The structure for each state's Medicaid program varies and the percentage of costs paid by each state is largely determined by the federal government. Federal law and regulation sets the minimum amount, scope, and duration of services offered in the program, among other requirements. Eligibility for the Medicaid program is based on a number of factors, including age, household or individual income, and assets. State Medicaid benefits are provided in statute under s. 409.903, F.S. (Mandatory Payments for Eligible Persons) and s. 409.904, F.S. (Optional Payments for Eligible Persons).

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[12] Department of Children and Families website, http://www.myflfamilies.com/service-programs/substance-abuse/managing-entities, (last visited Mar. 11, 2015).
[13] *See* s. 409.963, F.S.
[14] Agency for Health Care Administration, *Report of Medicaid Eligibles - January 31, 2015*, http://ahca.myflorida.com/medicaid/about/pdf/age_assistance_category_2015-01-31.pdf (last visited Mar. 9, 2015).
[15] Office of Economic and Demographic Research, *Social Services Estimating Conference Medicaid Expenditures* (December 12, 2014) http://edr.state.fl.us/Content/conferences/medicaid/medhistory.pdf (last visited Mar. 6, 2015).
[16] Agency for Health Care Administration, Health and Human Services Appropriations Committee Presentation, *Agency for Health Care Administration - An Overview* (Jan. 22, 2015), slide 9, http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AHS/MeetingRecords/MeetingPacket_2759.pdf (last visited Mar. 6, 2015).
[17] Id at 10.

In 2011, the Legislature established the Statewide Medicaid Managed Care Program.[18] The managed care program has two components: the Long Term Care Managed Care program and the Managed Medical Assistance program. The Statewide Medicaid Managed Care Program is an integrated managed care program for Medicaid enrollees that incorporates all of the covered services, for the delivery of primary and acute care in 11 regions.

The Managed Medicaid Assistance program is authorized by a Medicaid waiver granted by the federal Centers for Medicare and Medicaid Services. Behavioral health care is covered by Medicaid managed care plans and by Medicaid's system for providing services under fee-for-service payments.

## III. Effect of Proposed Changes:

**Section 1** amends s. 394.455, F.S., to revise the definition of "mental illness" to exclude dementia and traumatic brain injuries.

**Section 2** amends s. 394.492, F.S., to revise the definition of "adolescent" to a person under 21 years of age.

**Section 3** creates s. 394.761, F.S., to require AHCA and DCF to obtain federal approval to increase Medicaid funding for behavioral health care. The bill states that the goal of this federal approval is to implement a coordinated care organization (defined later in the bill) and to improve the integration of behavioral and primary health care services. A plan to obtain this approval must be submitted to the Legislature by November 1, 2015. The plan must identify:

- State funding that could be used as matching funds for the Medicaid program;
- How increased Medicaid funding could be used for expanded eligibility;
- How increased Medicaid funding could increase reimbursement rates and capitation rates for behavioral health services;
- How increased Medicaid funding could make supplemental payments to behavioral health service providers;
- Innovative programs for providing incentives for improved client outcomes;
- The advantages and disadvantages for each alternative;
- The types of federal approvals needed; and
- A timeline for implementing these changes.

**Section 4** amends s. 394.875, F.S., to require the DCF to modify licensure rules to create a consolidated license for a behavioral health care provider that offers multiple mental health and substance abuse services under ch. 394, F.S., (mental health) and ch. 397, F.S., (substance abuse) by January 1, 2016.

**Section 5** amends s. 394.9082, F.S., effective upon the bill becoming law, relating to the Legislature's intent to establish behavioral health managing entities. The bill strikes reference to behavioral health managing entities being single, private, nonprofit, local entities. The bill deletes the definition of "decision-making model" and redefines the geographic areas for managing entities as areas used by AHCA to implement Medicaid managed care. The bill revises

[18] *See* Chapter Laws, 2011-134 and 2011-135.

the definition of "managing entity" to delete reference to nonprofit status and defines such entities as those under contract with the DCF as of July 1, 2015.

The bill defines "coordinated care organizations" and requires managing entities to create a coordinated, regional network of behavioral health care providers. Such coordinated care organizations must provide access to a comprehensive range of services for persons with a mental illness or substance abuse disorder. DCF must designate a coordinated care organization based on established relationships between service providers, written agreements between providers, common intake and assessment, joint operations, and integrated case management. Requirements for the DCF to contract for a managing entity are revised so that managing entities develop a regional coordinated care organization. Outdated language relating to the implementation of the managing entities is repealed.

The bill requires DCF contracts with managing entities to be performance-based with specific performance standards, and consequences for failure to establish a coordinated care organization. In creating a coordinated care organization, a managing entity must consider public input, a needs assessment, and include evidence-based and best practice models. Under the bill, the DCF must establish 3-year contracts with managing entities on the next date of contract renewal after the bill becomes law. All managing entities; however, must be under performance-based contracts by July 1, 2017. Those managing entities with contracts providing for a renewal on July 1, 2015, may be renewed until a performance-based contract can be developed.

Failure by a managing entity to implement a coordinated care organization constitutes a disqualification as a managing entity and the DCF must begin procurement of another managing entity. The new entity must be either a managing entity from another region, a Medicaid managed care organization operating in the same region, or a behavioral health specialty managed care plan. When selecting a new managing entity, the DCF must consider input from behavioral health care providers, the experience of the proposed managing entity in providing behavioral health care, the extent to which the proposed managing entity has community partnerships with behavioral health care providers, the demonstrated ability to manage a network, and the ability to integrate behavioral health care with primary health care.

The bill establishes goals for the coordinated care organization as follows:

- Improved outcomes of persons receiving behavioral health care;
- Accountability and transparency for behavioral health care;
- Continuity of care for all children, adolescents and adults for behavioral health care;
- Value-based purchasing of behavioral health care to maximize the return on the investments of public resources;
- Early diagnosis and treatment to prevent unnecessary hospitalization;
- Regional service delivery systems that are responsive to local needs;
- Quality care by using evidence-based services and best practices; and
- Integration of behavioral health services with other assistance programs.

The bill defines the essential elements of a coordinated care organization as:

- A centralized receiving facility or coordinated receiving system for persons needing emergency assistance with behavioral health care through the Baker Act or the Marchman Act;
- Crisis services including mobile response teams and crisis stabilization units;
- Case management;
- Outpatient services;
- Residential services;
- Hospital inpatient care;
- After-care and post-discharge services;
- Recovery support, such as housing assistance, employment support, education assistance, independent living skill services, family support and education, and wellness services; and
- Medical services necessary for the integration of behavioral health care with primary care.

The bill establishes that the provider network must include all mental health and substance abuse providers currently receiving public funds for such services. Provider participation in the network would be based on credentialing and other performance standards. Managing entities must continue to provide financial management; allocate funds; monitor providers; collect, report, and analyze data; collaborate with community stakeholders, coordinate consumer care, continuously improve the quality of services; manage and maximize resources, including third-party payments; be a liaison with consumers; conduct community needs assessments; and secure local matching funds.

The managing entity must strive to serve all persons in need and will prioritize services when resources are limited. The bill establishes priority populations as:
- Individuals in crisis stabilization units awaiting placement in a state treatment facility;
- Individuals in state treatment facility awaiting community services;
- Parents or caretakers with involvement in the child welfare system;
- Individuals with multiple arrests and incarceration due to their behavioral health; and
- Individuals with conditions similar to those in the community that use a disproportionate amount of behavioral health care.

The bill revises the make-up of a managing entity's governing board effective December 31, 2015. The 15 members must be selected through a transparent process and serve in staggered terms. Members are limited to serving no more than eight years. Under the bill, the board must have the following members from the region:
- Four consumer representatives, or family members of persons receiving behavioral health care, nominated by behavioral health care providers;
- Two local government representatives nominated by local governments;
- Two representatives of law enforcement, appointed by the Attorney General;
- Two employer representatives nominated by a chamber of commerce;
- Two service provider representatives serving families in the child welfare system, appointed by the child welfare community-based care agency; and
- Three health care professionals or representatives of health facilities that are not under contract with the managing entity, nominated by local medical societies, hospitals, or other health care organizations.

The bill deletes outdated language relating to the implementation of statutes relating to managing entities.

**Section 6** creates s. 397.402, F.S., to establish a consolidated license for behavioral health care providers. Currently, the DCF licenses substance abuse providers. The standards are set out in law and rule and require an application, license fee, and inspections. Mental health providers, such as psychiatric hospitals, crisis stabilization units, and residential facilities, are licensed by the AHCA. For these AHCA-licensed facilities, the DCF develops or contributes to the rules. When a hospital is accredited, the accreditation can be substituted for state licensing. Individual providers who offer substance abuse and mental health services (psychiatrists, psychologists, social workers, counselors, etc.) are licensed by their respective professional boards.

Under the bill, the DCF will develop the option for providers to have a single, consolidated license by January 1, 2016. Providers must operate under a single corporate entity to be eligible for the consolidated license. When such providers serve both children and adults, they must meet DCF standards for providing separate facilities and other arrangements to ensure the safety of children.

**Section 7** amends s. 397.427, F.S., to repeal language relating to medication-assisted treatment, such as treatment for opiate addictions. Such programs provide synthetic drugs such as methadone to assist the patient in recovery from dependence on illegal drugs. The repealed language requires the DCF to determine the need for such treatment programs, adopt rules, and select providers of medication-assisted treatment.

**Section 8** amends s. 409.967, F.S., relating to Medicaid managed care plans. The bill requires managed care plans to provide or contract for care coordination of behavioral health care. The aim of such care coordination is to provide services in the least restrictive environment. The bill requires behavioral health care services delivered by Medicaid managed care plans to be integrated with primary care. Plans are to meet specific outcome standards developed in consultation with the DCF.

**Section 9** amends s. 409.973, F.S., relating to benefits under Medicaid managed care plans. The bill establishes a new initiative for integrated behavioral health and requires each plan to work with behavioral health managing entities.

**Section 10** amends s. 409.975, F.S., relating to managed care plan accountability. The bill adds publically-funded behavioral health care providers to the list of essential Medicaid providers with which Medicaid managed care plans are required to contract.

**Section 11** repeals s. 394.4674, F.S., relating to deinstitutionalization. The statute currently directs the DCF to develop a plan for the deinstitutionalization of patients in a treatment facility who are over age 55 and do not meet the criteria for involuntary placement.

**Section 12** repeals s. 394.4985, F.S., relating to information and referral services that requires DCF to establish a districtwide comprehensive child and adolescent mental health information and referral network.

**Section 13** repeals s. 394.657, F.S., relating to county planning for behavioral health. The statute currently requires each county have an entity to make a formal recommendation to the board of county commissioners regarding how the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program may best be implemented within a community.

**Section 14** repeals s. 394.745, F.S., relating to annual reports on behavioral health. The statute currently requires the DCF to submit an annual report to the President of the Senate and the Speaker of the House of Representatives, which describes the compliance of providers that provide substance abuse treatment programs and mental health services under contract with the DCF. This provision of current law is obsolete because responsibility for managing such providers has been turned over to the managing entities.

**Section 15** repeals s. 394.9084, F.S., relating to self-directed care programs. The statute currently allows the DCF, in cooperation with the AHCA, to provide a client-directed and choice-based Florida Self-Directed Care Program in all service districts, in addition to the pilot projects established in District 4 and District 8, to provide mental health treatment and support services to adults who have serious mental illness.

**Section 16** repeals s. 397.331, F.S., relating to legislative intent and definitions for substance abuse treatment. The statute currently calls for a state drug control strategy to be developed and implemented.

**Section 17** repeals s. 397.333, F.S., creating the Statewide Drug Policy Advisory Council in the Department of Health.

**Section 18** repeals s. 397.801, F.S., relating to substance abuse impairment coordination. The statute currently requires the DCF, the Department of Education, the Department of Corrections, and the Department of Law Enforcement to each appoint a policy-level staff person to serve as the agency substance abuse impairment coordinator.

**Section 19** repeals s. 397.811, F.S., relating to juvenile substance abuse. The statute currently provides intent language that a substance abuse impairment crisis is destroying the state's youth. The statute further provides legislative intent that funds be invested in prevention and early intervention programs.

**Section 20** repeals s. 397.821, F.S., establishing juvenile substance abuse impairment prevention and early intervention councils. The purpose of the councils is to identify community needs in the area of juvenile substance abuse impairment prevention and early intervention and to make recommendations to the DCF.

**Section 21** repeals s. 397.901, F.S., which authorizes prototype juvenile addictions receiving facilities to provide substance abuse impairment treatment services and community-based detoxification, stabilization, and short-term treatment and medical care to juveniles found to be impaired and in need of emergency treatment as a consequence of being impaired.

**Section 22** repeals s. 397.93, F.S., which specifies that the target populations for children's substance abuse services are children at risk for substance abuse and children with substance

abuse problems. This provision of current law is superseded by language in section 5 of the bill to specify priority target populations for behavioral health care services.

**Section 23** repeals s. 397.94, F.S., relating to planning information and referral networks for child substance abuse services. These requirements are made obsolete by the bill's provisions for coordinated care organizations.

**Section 24** repeals s. 397.951, F.S., relating to treatment and sanctions for children in substance abuse treatment. The statute currently calls for the integration of treatment and sanctions to increase the effectiveness of substance abuse treatment.

**Section 25** repeals s. 397.97, F.S., relating to Children's Network of Care Demonstration Models. The purpose of such models is to create an effective interagency strategy for delivering substance abuse services to the target populations through a local network of service providers, which is duplicative of the requirements of the bill to establish coordinated care organizations.

**Sections 26 through 30** amend various statutory provisions to correct cross-references to conform to changes made in sections 1 through 25.

**Section 31 through 36** reenact various statutory provisions for the purpose of incorporating amendments by reference thereto made in sections 1 through 25.

**Section 37** provides an effective date of July 1, 2015, except for section 5, which takes effect upon the bill becoming law

## IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

## V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under SB 7068, private providers of behavioral health services could experience lower costs through a consolidated licensing process by DCF. The duties of private managing entities would be revised under the bill such as establishing a coordinated care organization. If the bill results in expanded Medicaid services or payment rates, private behavioral health care providers could experience increased revenues.

C. Government Sector Impact:

The bill could have a positive, indeterminate fiscal impact on the state to the extent that efforts by the Agency for Health Care Administration and Department of Children and Families to obtain federal approval to increase Medicaid funding for behavioral health care, are successful.

## VI. Technical Deficiencies:

The title is incorrect on line 4 as the bill excludes dementia and brain injuries from the definition of mental illness.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.455, 394.492, 394.875, 394.9082, 397.427, 397.321, 397.98, 409.966, 409.967, 409.973, 409.975, 943.031, and 943.042.

This bill creates the following sections of the Florida Statutes: 394.761 and 397.402.

This bill repeals the following sections of the Florida Statutes: 394.4674, 394.4985, 394.657, 394.745, 394.9084, 397.331, 397.333, 397.801, 397.811, 397.821, 397.901, 397.93, 397.94, 397.951, and 397.97.

This bill reenacts the following sections of the Florida Statutes: 39.407, 394.67, 394.674, 394.676, 409.1676, and 409.1677.

## IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

442224

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 209 - 219

and insert:

(11) No later than January 1, 2016, the department, in consultation with the agency, shall modify licensure rules and procedures to create an option for a single, consolidated license for a provider who offers multiple types of mental health and substance abuse services regulated under this chapter and chapter 397 pursuant to s. 397.402.

442224

11
12 ================ T I T L E  A M E N D M E N T ================
13 And the title is amended as follows:
14 Delete lines 21 - 22
15 and insert:
16 the department, in consultation with the Agency for
17 Health Care Administration, modify certain licensure
18 rules and procedures;

948500

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment**

Delete lines 342 - 384
and insert:
(c) The contract with each managing entity must be performance-based and contain specific results, measureable performance standards and timelines, and identify penalties for failure to timely plan and implement a regional, coordinated care organization, to meet other specific performance standards, including financial management, or other contractual

948500

requirements. The contract must have a schedule of penalties scaled to the nature and significance of the managing entity's failure to perform. Such penalties may include, but are not limited to, a corrective action plan, liquidated damages, or termination of the contract. The contract must provide a reasonable opportunity for managing entities to implement corrective actions, but must require progress toward achievement of the performance standards identified in paragraph (e)
~~Contracting and payment mechanisms for services must promote clinical and financial flexibility and responsiveness and must allow different categorical funds to be integrated at the point of service~~. The plan for coordination and integration of services required by subsection (3) shall be developed based on ~~contracted service array must be determined by using~~ public input and~~,~~ needs assessment, and must incorporate promising, evidence-based ~~and promising~~ best practice models. ~~The department may employ care management methodologies, prepaid capitation, and case rate or other methods of payment which promote flexibility, efficiency, and accountability.~~

(d) The department shall establish a 3-year performance-based contract with each managing entity by July 1, 2017. For managing entities selected after the effective date of this act, the department shall use a performance-based contract that meets the requirements of this section. For managing entities with contracts subject to renewal on or before July 1, 2015, the department may renew, or if available, extend a contract under s. 287.057(12), but contracts with such managing entities must meet the requirements of this section by July 1, 2017.

(e) If the department terminates a contract with a managing

948500

entity due to failure to establish a coordinated care organization or meet other contractual requirements, the department must issue an invitation to negotiate in order to select a new managing entity. The new managing entity must be either a managing entity in another region, a Medicaid managed care organization operating in the same region, or a behavioral health specialty managed care organization established pursuant to part IV of chapter 409. The

733248

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment to Amendment (948500)**

Delete line 45
and insert:
care organization operating in the same region, a behavioral health organization contracted with a Medicaid managed care organization operating in the same region, or a behavioral

321632

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment**

Delete line 465
and insert:
comprehensive network of providers working together to offer a patient-centered system of care which provides or arranges for the following

579056

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment**

Between lines 488 and 489
insert:
10. Prevention and outreach services.
11. Medication assisted treatment.
12. Detoxification services.

296318

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 726 - 736

and insert:

397.402 Single, consolidated license.—No later than January 1, 2016, the department, in consultation with the Agency for Health Care Administration, shall modify licensure rules and procedures to create an option for a single, consolidated license for a provider that offers multiple types of mental health and substance abuse services regulated under this chapter

296318

and chapter 394. Providers eligible for a consolidated license must operate these services through a single corporate entity and a unified management structure. Any provider serving both adults and children must meet department standards for separate facilities and other requirements necessary to ensure the safety of children and promote therapeutic efficacy. The department and the Agency for Health Care Administration shall recommend to the Governor, the President of the Senate, and the Speaker of the House of Representatives any revisions to the Florida Statutes needed to further implement the intent of this section by December 1, 2015.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete line 71

and insert:

rules and procedures by a certain date; requiring the department and the Agency for Health Care Administration to make certain recommendations to the Governor and the Legislature by a specified date; providing

535464

LEGISLATIVE ACTION

Senate . House

. . . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 737 - 866.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 72 - 77

and insert:

requirements for a provider; amending s. 409.967, F.S.;

284604

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 963 - 964.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 92 - 94

and insert:

providers under contract with the department;
repealing s. 397.331, F.S., relating to

348368

LEGISLATIVE ACTION

Senate . House

. .

. .

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The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment**

Delete line 566
and insert:
contract. The managing entity must use a unique identifier developed by the department for each person served. All providers under contract with the managing entity shall use the unique identifier in order to coordinate care and the delivery of services by January 1, 2016. The department shall evaluate managing entity services

335426

LEGISLATIVE ACTION

Senate . House

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The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment**

Delete lines 594 - 623

and insert:

(a) As of December 31, 2015, the department shall verify that each ~~a~~ managing entity's governing board meets the requirements of this section. ~~governance structure shall be representative and shall, at a minimum, include consumers and family members, appropriate community stakeholders and organizations, and providers of substance abuse and mental~~

335426

~~health services as defined in this chapter and chapter 397. If there are one or more private-receiving facilities in the geographic coverage area of a managing entity, the managing entity shall have one representative for the private-receiving facilities as an ex officio member of its board of directors.~~

1. The composition of the board shall be broadly representative of the community and include consumers and family members, community organizations that do not contract with the managing entity, local governments, area law enforcement agencies, business leaders, local providers of child welfare services, health care professionals, and representatives of health care facilities.

2. The managing entity must establish a technical advisory panel consisting of providers of mental health and substance abuse services that selects at least one member to serve as an ex officio member of the governing board.

544968

LEGISLATIVE ACTION

Senate . House

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The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment**

In title, delete line 4
and insert:
definition of "mental illness" to exclude dementia and

**By** the Committee on Appropriations

576-02888-15 20157068__

A bill to be entitled

An act relating to mental health and substance abuse services; amending s. 394.455, F.S.; revising the definition of "mental illness" to include dementia and traumatic brain injuries; amending s. 394.492, F.S.; redefining the terms "adolescent" and "child or adolescent at risk of emotional disturbance"; creating s. 394.761, F.S.; requiring the Agency for Health Care Administration and the Department of Children and Families to develop a plan to obtain federal approval for increasing the availability of federal Medicaid funding for behavioral health care; establishing improved integration of behavioral health and primary care services through the development and effective implementation of coordinated care organizations as the primary goal of obtaining the additional funds; requiring the agency and the department to submit the written plan, which must include certain information, to the Legislature by a specified date; amending s. 394.875, F.S.; requiring that, by a specified date, the department modify certain licensure rules and procedures; providing requirements for providers; amending s. 394.9082, F.S.; revising Legislative findings and intent; redefining terms; requiring the managing entities, rather than the department, to develop and implement a plan with a certain purpose; requiring the regional network to offer access to certain services; requiring the plan to be developed in a certain manner; requiring the department to







576-02888-15 20157068__

designate the regional network as a coordinated care organization after certain conditions are met; removing a provision providing legislative intent; requiring the department to contract with community-based managing entities for the development of specified objectives; removing duties of the department, the secretary of the department, and managing entities; removing a provision regarding the requirement of funding the managing entity's contract through departmental funds; removing legislative intent; requiring that the department's contract with each managing entity be performance based; providing for scaled penalties and liquidated damages if a managing entity fails to perform after a reasonable opportunity for corrective action; requiring the plan for the coordination and integration of certain services to be developed in a certain manner and to incorporate certain models; providing requirements for the department when entering into contracts with a managing entity; requiring the department to consider specified factors when considering a new contractor; revising the goals of the coordinated care organization; requiring a coordinated care organization to consist of a comprehensive provider network that includes specified elements; requiring that specified treatment providers be initially included in the provider network; providing for continued participation in the provider network; revising the network management and administrative

functions of the managing entities; requiring that the managing entity support network providers in certain ways; authorizing the managing entity to prioritize certain populations when necessary; requiring that, by a certain date, a managing entity's governing board consist of a certain number of members selected by the managing entity in a specified manner; providing requirements for the governing board; removing departmental responsibilities; removing a reporting requirement; authorizing, rather than requiring, the department to adopt rules; creating s. 397.402, F.S.; requiring that the department modify certain licensure rules and procedures by a certain date; providing requirements for a provider; amending s. 397.427, F.S.; removing provisions requiring the department to determine the need for establishing providers of medication-assisted treatment services for opiate addiction; removing provisions requiring the department to adopt rules; amending s. 409.967, F.S.; requiring that certain plans or contracts include specified requirements; amending s. 409.973, F.S.; requiring each plan operating in the managed medical assistance program to work with the managing entity to establish specific organizational supports and service protocols; amending s. 409.975, F.S.; revising the categories from which the agency must determine which providers are essential Medicaid providers; repealing s. 394.4674, F.S., relating to a plan and report; repealing s. 394.4985, F.S., relating to districtwide





information and referral network and implementation; repealing s. 394.657, F.S., relating to county planning councils or committees; repealing s. 394.745, F.S., relating to an annual report and compliance of providers under contract with department; repealing s. 394.9084, F.S., relating to the Florida Self-Directed Care program; repealing s. 397.331, F.S., relating to definitions; repealing s. 397.333, F.S., relating to the Statewide Drug Policy Advisory Council; repealing s. 397.801, F.S., relating to substance abuse impairment coordination; repealing s. 397.811, F.S., relating to juvenile substance abuse impairment coordination; repealing s. 397.821, F.S., relating to juvenile substance abuse impairment prevention and early intervention councils; repealing s. 397.901, F.S., relating to prototype juvenile addictions receiving facilities; repealing s. 397.93, F.S., relating to children's substance abuse services and target populations; repealing s. 397.94, F.S., relating to children's substance abuse services and the information and referral network; repealing s. 397.951, F.S., relating to treatment and sanctions; repealing s. 397.97, F.S., relating to children's substance abuse services and demonstration models; amending ss. 397.321, 397.98, 409.966, 943.031, and 943.042, F.S.; conforming provisions and cross-references to changes made by the act; reenacting ss. 39.407(6)(a), 394.67(21), 394.674(1)(b), 394.676(1), 409.1676(2)(c), and 409.1677(1)(b), F.S., relating to

the term "suitable for residential treatment" or "suitability," the term "residential treatment center for children and adolescents," children's mental health services, the indigent psychiatric medication program, and the term "serious behavioral problems," respectively, to incorporate the amendment made to s. 394.492, F.S., in references thereto; providing effective dates.

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

Section 1. Subsection (18) of section 394.455, Florida Statutes, is amended to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(18) "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, dementia, traumatic brain injuries, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

Section 2. Subsections (1), (4), and (6) of section 394.492, Florida Statutes, are amended to read:

394.492 Definitions.—As used in ss. 394.490-394.497, the term:

(1) "Adolescent" means a person who is at least 13 years of





age but under ~~18~~ 21 years of age.

(4) "Child or adolescent at risk of emotional disturbance" means a person under ~~18~~ 21 years of age who has an increased likelihood of becoming emotionally disturbed because of risk factors that include, but are not limited to:

(a) Being homeless.

(b) Having a family history of mental illness.

(c) Being physically or sexually abused or neglected.

(d) Abusing alcohol or other substances.

(e) Being infected with human immunodeficiency virus (HIV).

(f) Having a chronic and serious physical illness.

(g) Having been exposed to domestic violence.

(h) Having multiple out-of-home placements.

(6) "Child or adolescent who has a serious emotional disturbance or mental illness" means a person under ~~18~~ 21 years of age who:

(a) Is diagnosed as having a mental, emotional, or behavioral disorder that meets one of the diagnostic categories specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association; and

(b) Exhibits behaviors that substantially interfere with or limit his or her role or ability to function in the family, school, or community, which behaviors are not considered to be a temporary response to a stressful situation.

The term includes a child or adolescent who meets the criteria for involuntary placement under s. 394.467(1).

Section 3. Section 394.761, Florida Statutes, is created to

read:

394.761 Revenue maximization.—The agency and the department shall develop a plan to obtain federal approval for increasing the availability of federal Medicaid funding for behavioral health care. Increased funding will be used to advance the goal of improved integration of behavioral health and primary care services through development and effective implementation of coordinated care organizations as described in s. 394.9082(3). The agency and the department shall submit the written plan to the President of the Senate and the Speaker of the House of Representatives no later than November 1, 2015. The plan shall identify the amount of general revenue funding appropriated for mental health and substance abuse services which is eligible to be used as state Medicaid match. The plan must evaluate alternative uses of increased Medicaid funding, including expansion of Medicaid eligibility for the severely and persistently mentally ill; increased reimbursement rates for behavioral health services; adjustments to the capitation rate for Medicaid enrollees with chronic mental illness and substance use disorders; supplemental payments to mental health and substance abuse providers through a designated state health program or other mechanisms; and innovative programs for incentivizing improved outcomes for behavioral health conditions. The plan shall identify the advantages and disadvantages of each alternative and assess the potential of each for achieving improved integration of services. The plan shall identify the types of federal approvals necessary to implement each alternative and project a timeline for implementation.





Section 4. Subsection (11) is added to section 394.875, Florida Statutes, to read:

394.875 Crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; authorized services; license required.—

(11) No later than January 1, 2016, the department shall modify licensure rules and procedures to create an option for a single, consolidated license for a provider who offers multiple types of mental health and substance abuse services regulated under this chapter and chapter 397. Providers eligible for a consolidated license must operate these services through a single corporate entity and a unified management structure. Any provider serving adult and children must meet departmental standards for separate facilities and other requirements necessary to ensure children's safety and promote therapeutic efficacy.

Section 5. Effective upon this act becoming a law, section 394.9082, Florida Statutes, is amended to read:

394.9082 Behavioral health managing entities.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that untreated behavioral health disorders constitute major health problems for residents of this state, are a major economic burden to the citizens of this state, and substantially increase demands on the state's juvenile and adult criminal justice systems, the child welfare system, and health care systems. The Legislature finds that behavioral health disorders respond to appropriate treatment, rehabilitation, and supportive intervention. The Legislature finds that the state's return on its ~~it has made a substantial long-term~~ investment in the

funding of the community-based behavioral health prevention and treatment service systems and facilities can be enhanced by integration of these services with primary care ~~in order to provide critical emergency, acute care, residential, outpatient, and rehabilitative and recovery based services~~. The Legislature finds that local communities have also made substantial investments in behavioral health services, contracting with safety net providers who by mandate and mission provide specialized services to vulnerable and hard-to-serve populations and have strong ties to local public health and public safety agencies. The Legislature finds that a regional management structure for ~~that places the responsibility for publicly financed~~ behavioral health treatment and prevention services ~~within a single private, nonprofit entity at the local level~~ will improve ~~promote improved~~ access to care, promote service continuity, and provide for more efficient and effective delivery of substance abuse and mental health services. The Legislature finds that streamlining administrative processes will create cost efficiencies and provide flexibility to better match available services to consumers' identified needs.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Behavioral health services" means mental health services and substance abuse prevention and treatment services as defined in this chapter and chapter 397 which are provided using state and federal funds.

~~(b) "Decisionmaking model" means a comprehensive management information system needed to answer the following management questions at the federal, state, regional, circuit, and local provider levels: who receives what services from which providers~~





~~with what outcomes and at what costs?~~

(b) ~~(c)~~ "Geographic area" means a ~~county,~~ circuit, ~~regional,~~ or a region as described in s. 409.966 ~~multiregional area in this state~~.

(c) ~~(d)~~ "Managing entity" means a corporation ~~that is organized in this state, is designated or filed as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code, and is~~ under contract to the department to manage the ~~day-to-day operational~~ delivery of behavioral health services as of July 1, 2015 ~~through an organized system of care~~.

~~(c) "Provider networks" mean the direct service agencies that are under contract with a managing entity and that together constitute a comprehensive array of emergency, acute care, residential, outpatient, recovery support, and consumer support services.~~

(3) COORDINATED CARE ORGANIZATIONS ~~SERVICE DELIVERY STRATEGIES~~.—The ~~department may work through~~ managing entities shall ~~to~~ develop and implement a plan to create a coordinated regional network of behavioral health service providers. The regional network must offer access to a comprehensive range of services and continuity of care for ~~service delivery strategies that will improve the coordination, integration, and management of the delivery of behavioral health services to~~ people with ~~who have~~ mental illness or substance use disorders. The plan must be developed through a collaborative process between the managing entity and providers in the region. The department shall designate the regional network as a coordinated care organization after the relationships, linkages, and interactions among network providers are formalized through written

agreements that establish common protocols for intake and assessment, mechanisms for data sharing, joint operational procedures, and integrated care planning and case management. ~~It is the intent of the Legislature that a well-managed service delivery system will increase access for those in need of care, improve the coordination and continuity of care for vulnerable and high-risk populations, and redirect service dollars from restrictive care settings to community-based recovery services.~~

(4) CONTRACT FOR SERVICES.—

(a) The department must ~~may~~ contract ~~for the purchase and management of behavioral health services~~ with community-based managing entities for the development of a regional coordinated care organization, network management services, and the administrative functions defined in subsection (6). ~~The department may require a managing entity to contract for specialized services that are not currently part of the managing entity's network if the department determines that to do so is in the best interests of consumers of services. The secretary shall determine the schedule for phasing in contracts with managing entities. The managing entities shall, at a minimum, be accountable for the operational oversight of the delivery of behavioral health services funded by the department and for the collection and submission of the required data pertaining to these contracted services. A managing entity shall serve a geographic area designated by the department. The geographic area must be of sufficient size in population and have enough public funds for behavioral health services to allow for flexibility and maximum efficiency.~~

(b) ~~The operating costs of the managing entity contract~~







~~shall be funded through funds from the department and any savings and efficiencies achieved through the implementation of managing entities when realized by their participating provider network agencies. The department recognizes that managing entities will have infrastructure development costs during start-up so that any efficiencies to be realized by providers from consolidation of management functions, and the resulting savings, will not be achieved during the early years of operation. The department shall negotiate a reasonable and appropriate administrative cost rate with the managing entity. The Legislature intends that reduced local and state contract management and other administrative duties passed on to the managing entity allows funds previously allocated for these purposes to be proportionately reduced and the savings used to purchase the administrative functions of the managing entity. Policies and procedures of the department for monitoring contracts with managing entities shall include provisions for eliminating duplication of the department's and the managing entities' contract management and other administrative activities in order to achieve the goals of cost-effectiveness and regulatory relief.~~ To the maximum extent possible, provider-monitoring activities shall be assigned to the managing entity.

(c) The department's contract with each managing entity must be a performance-based agreement requiring specific results, setting measureable performance standards and timelines, and identifying consequences for failure to timely plan and implement a regional, coordinated care organization. The consequences specified in the contract must correlate to a schedule of penalties, scaled to the nature and significance of

the managing entity's failure to perform, and must include liquidated damages. The contract must provide a reasonable opportunity for managing entities to implement corrective actions, but must require progress toward achievement of the performance standards identified in paragraph (e) ~~Contracting and payment mechanisms for services must promote clinical and financial flexibility and responsiveness and must allow different categorical funds to be integrated at the point of service~~. The plan for coordination and integration of services required by subsection (3) shall be developed based on ~~contracted service array must be determined by using~~ public input and~~,~~ needs assessment, and must incorporate promising, evidence-based ~~and promising~~ best practice models. ~~The department may employ care management methodologies, prepaid capitation, and case rate or other methods of payment which promote flexibility, efficiency, and accountability.~~

(d) The department shall establish a 3-year performance-based contract with each managing entity on the next date of contract renewal after the effective date of this act. All managing entities must be operating under performance-based contracts by July 1, 2017. Managing entities with contracts subject to renewal on July 1, 2015, shall receive a contract renewal, if available, or a contract extension under s. 287.057(12) until the performance-based contract can be developed.

(e) The contract must identify performance standards that are critical to the implementation of a coordinated care organization. Failure to achieve these specific standards constitutes a disqualification of the entity resulting in a





notice of termination, which is effective upon selection of a new contractor. If a managing entity is disqualified due to performance failure, the department shall issue an invitation to negotiate in order to select a new contractor. The new contractor must be a managing entity in another region, a Medicaid managed care organization operating in the same region, or a behavioral health specialty managed care organization. The department shall consider the input and recommendations of network providers in the selection of the new contractor. The invitation to negotiate shall specify the criteria and the relative weight of the criteria that will be used in selecting the new contractor. The department must consider all of the following factors:

1. Experience serving persons with mental health and substance use disorders.

2. Establishment of community partnerships with behavioral health providers.

3. Demonstrated organizational capabilities for network management functions.

4. Capability to integrate behavioral health with primary care services.

(5) GOALS.—The primary goal of the coordinated care organization ~~service delivery strategies~~ is to improve outcomes for persons needing ~~provide a design for an effective coordination, integration, and management approach for delivering effective~~ behavioral health services ~~to persons who are experiencing a mental health or substance abuse crisis, who have a disabling mental illness or a substance use or co-occurring disorder, and require extended services in order to~~

~~recover from their illness, or who need brief treatment or longer-term supportive interventions to avoid a crisis or disability~~. Other goals include:

(a) ~~Improving~~ Accountability for measureable and transparent ~~a local system of behavioral health care services to meet~~ performance outcomes ~~and standards through the use of reliable and timely data~~.

(b) ~~Enhancing the~~ Continuity of care for all children, adolescents, and adults who receive services from the coordinated care organization ~~enter the publicly funded behavioral health service system~~.

(c) Value-based purchasing of behavioral health services that maximizes the return on investment to local, state, and federal funding sources ~~Preserving the "safety net" of publicly funded behavioral health services and providers, and recognizing and ensuring continued local contributions to these services, by establishing locally designed and community-monitored systems of care~~.

(d) ~~Providing~~ Early diagnosis and treatment ~~interventions~~ to enhance recovery and prevent hospitalization.

(e) Regional service delivery systems that are responsive to ~~Improving the assessment of~~ local needs for behavioral health services.

(f) Quality care that is provided using ~~Improving the overall quality of behavioral health services through the use of~~ evidence-based, best practice, and promising practice models.

(g) ~~Demonstrating improved service~~ Integration of ~~between~~ behavioral health services ~~programs~~ and other programs, such as vocational rehabilitation, education, child welfare, primary





health care, emergency services, juvenile justice, and criminal justice.

~~(h) Providing for additional testing of creative and flexible strategies for financing behavioral health services to enhance individualized treatment and support services.~~

~~(i) Promoting cost-effective quality care.~~

~~(j) Working with the state to coordinate admissions and discharges from state civil and forensic hospitals and coordinating admissions and discharges from residential treatment centers.~~

~~(k) Improving the integration, accessibility, and dissemination of behavioral health data for planning and monitoring purposes.~~

~~(l) Promoting specialized behavioral health services to residents of assisted living facilities.~~

~~(m) Working with the state and other stakeholders to reduce the admissions and the length of stay for dependent children in residential treatment centers.~~

~~(n) Providing services to adults and children with co-occurring disorders of mental illnesses and substance abuse problems.~~

~~(o) Providing services to elder adults in crisis or at-risk for placement in a more restrictive setting due to a serious mental illness or substance abuse.~~

(6) ESSENTIAL ELEMENTS.~~—It is the intent of the Legislature that the department may plan for and enter into contracts with managing entities to manage care in geographical areas throughout the state.~~

(a) A coordinated care organization must consist of a

comprehensive provider network that includes the following elements: ~~The managing entity must demonstrate the ability of its network of providers to comply with the pertinent provisions of this chapter and chapter 397 and to ensure the provision of comprehensive behavioral health services. The network of providers must include, but need not be limited to, community mental health agencies, substance abuse treatment providers, and best practice consumer services providers.~~

1. A centralized receiving facility or coordinated receiving system for persons needing evaluation pursuant to s. 394.463 or s. 397.675.

2. Crisis services, including mobile response teams and crisis stabilization units.

3. Case management.

4. Outpatient services.

5. Residential services.

6. Hospital inpatient care.

7. Aftercare and other postdischarge services.

8. Recovery support, including housing assistance and support for competitive employment, educational attainment, independent living skills development, family support and education, and wellness management and self-care.

9. Medical services necessary for integration of behavioral health services with primary care.

~~(b) The department shall terminate its mental health or substance abuse provider contracts for services to be provided by the managing entity at the same time it contracts with the managing entity.~~

(b) ~~(c)~~ The ~~managing entity shall ensure that its~~ provider







network shall initially include all ~~is broadly conceived. All~~ mental health or substance abuse treatment providers currently receiving public funds pursuant to this chapter or chapter 397. Continued participation in the network is subject to credentials and performance standards set by the managing entity and approved by the department ~~under contract with the department shall be offered a contract by the managing entity~~.

(c) ~~(d)~~ The network management and administrative functions of the ~~department may contract with~~ managing entities ~~to provide the following core functions~~ include:

1. Financial management ~~accountability~~.

2. Allocation of funds to network providers in a manner that reflects the department's strategic direction and plans.

3. Provider monitoring to ensure compliance with federal and state laws, rules, and regulations.

4. Data collection, reporting, and analysis.

5. Information systems necessary for the delivery of coordinated care and integrated services ~~Operational plans to implement objectives of the department's strategic plan~~.

6. Contract compliance.

7. Performance measurement based on nationally recognized standards such as those developed by the National Quality Forum, the National Committee for Quality Assurance, or similar credible sources ~~management~~.

8. Collaboration with community stakeholders, including local government.

~~9. System of care through network development.~~

9.~~10.~~ Consumer care coordination.

10.~~11~~. Continuous quality improvement.

~~12. Timely access to appropriate services.~~

~~13. Cost-effectiveness and system improvements.~~

~~14. Assistance in the development of the department's strategic plan.~~

~~15. Participation in community, circuit, regional, and state planning.~~

11.~~16~~. Resource management and maximization, including pursuit of third-party payments and grant applications.

12.~~17~~. Incentives for providers to improve quality and access.

13.~~18~~. Liaison with consumers.

14.~~19~~. Community needs assessment.

15.~~20~~. Securing local matching funds.

(d) The managing entity shall support network providers to offer comprehensive and coordinated care to all persons in need, but may develop a prioritization framework when necessary to make the best use of limited resources. Priority populations include:

1. Individuals in crisis stabilization units who are on the waitlist for placement in a state treatment facility;

2. Individuals in state treatment facilities on the waitlist for community care;

3. Parents or caretakers with child welfare involvement;

4. Individuals with multiple arrests and incarceration as a result of their behavioral health condition; and

5. Individuals with behavioral health disorders and comorbidities consistent with the characteristics of patients in the region's population of behavioral health service users who account for a disproportionately high percentage of service





expenditures.

(e) The managing entity shall ensure that written cooperative agreements are developed and implemented among the criminal and juvenile justice systems, the local community-based care network, and the local behavioral health providers in the geographic area which define strategies and alternatives for diverting people who have mental illness and substance abuse problems from the criminal justice system to the community. These agreements must also address the provision of appropriate services to persons who have behavioral health problems and leave the criminal justice system.

(f) Managing entities must collect and submit data to the department regarding persons served, outcomes of persons served, and the costs of services provided through the department's contract. The department shall evaluate managing entity services based on consumer-centered outcome measures that reflect national standards that can dependably be measured. The department shall work with managing entities to establish performance standards related to:

1. The extent to which individuals in the community receive services.

2. The improvement of quality of care for individuals served.

3. The success of strategies to divert jail, prison, and forensic facility admissions.

4. Consumer and family satisfaction.

5. The satisfaction of key community constituents such as law enforcement agencies, juvenile justice agencies, the courts, the schools, local government entities, hospitals, and others as

appropriate for the geographical area of the managing entity.

(g) The Agency for Health Care Administration may establish a certified match program, which must be voluntary. Under a certified match program, reimbursement is limited to the federal Medicaid share to Medicaid-enrolled strategy participants. The agency may take no action to implement a certified match program unless the consultation provisions of chapter 216 have been met. The agency may seek federal waivers that are necessary to implement the behavioral health service delivery strategies.

(7) MANAGING ENTITY REQUIREMENTS.—The department may adopt rules and contractual standards related to ~~and a process for~~ the qualification and operation of managing entities which are based, in part, on the following criteria:

(a) As of December 31, 2015, a managing entity's governing board ~~governance structure~~ shall consist of 15 members selected by the managing entity as follows: ~~be representative and shall, at a minimum, include consumers and family members, appropriate community stakeholders and organizations, and providers of substance abuse and mental health services as defined in this chapter and chapter 397. If there are one or more private-receiving facilities in the geographic coverage area of a managing entity, the managing entity shall have one representative for the private-receiving facilities as an ex officio member of its board of directors.~~

1. Four representatives of consumers and their families, selected from nominations submitted by behavioral health service providers in the region.

2. Two representatives of local governments in the region, selected from nominations submitted by county and municipal





governments in the region.

3. Two representatives of law enforcement, appointed by the Attorney General.

4. Two representatives of employers in the region, selected from nominations submitted by Chambers of Commerce in the region.

5. Two representatives of service providers involved with the child welfare system, appointed by the community-based care lead agency.

6. Three representatives of health care professionals and health facilities in the region which are not under contract to the managing entity, selected from nominations submitted by local medical societies, hospitals, and other health care organizations in the region.

(b) The managing entity must create a transparent process for nomination and selection of board members and must adopt a procedure for establishing staggered term limits which ensures that no individual serves more than 8 consecutive years on the governing board ~~A managing entity that was originally formed primarily by substance abuse or mental health providers must present and demonstrate a detailed, consensus approach to expanding its provider network and governance to include both substance abuse and mental health providers~~.

(c) A managing entity must submit a network management plan and budget in a form and manner determined by the department. The plan must detail the means for implementing the duties to be contracted to the managing entity and the efficiencies to be anticipated by the department as a result of executing the contract. The department may require modifications to the plan

and must approve the plan before contracting with a managing entity. The department may contract with a managing entity that demonstrates readiness to assume core functions, and may continue to add functions and responsibilities to the managing entity's contract over time as additional competencies are developed as identified in paragraph (g). ~~Notwithstanding other provisions of this section, the department may continue and expand managing entity contracts if the department determines that the managing entity meets the requirements specified in this section.~~

~~(d) Notwithstanding paragraphs (b) and (c), a managing entity that is currently a fully integrated system providing mental health and substance abuse services, Medicaid, and child welfare services is permitted to continue operating under its current governance structure as long as the managing entity can demonstrate to the department that consumers, other stakeholders, and network providers are included in the planning process.~~

(d) ~~(c)~~ Managing entities shall operate in a transparent manner, providing public access to information, notice of meetings, and opportunities for broad public participation in decisionmaking. The managing entity's network management plan must detail policies and procedures that ensure transparency.

(e) ~~(f)~~ Before contracting with a managing entity, the department must perform an onsite readiness review of a managing entity to determine its operational capacity to satisfactorily perform the duties to be contracted.

(f) ~~(g)~~ The department shall engage community stakeholders, including providers and managing entities under contract with





the department, in the development of objective standards to measure the competencies of managing entities and their readiness to assume the responsibilities described in this section, and the outcomes to hold them accountable.

~~(8) DEPARTMENT RESPONSIBILITIES. With the introduction of managing entities to monitor department-contracted providers' day-to-day operations, the department and its regional and circuit offices will have increased ability to focus on broad systemic substance abuse and mental health issues. After the department enters into a managing entity contract in a geographic area, the regional and circuit offices of the department in that area shall direct their efforts primarily to monitoring the managing entity contract, including negotiation of system quality improvement goals each contract year, and review of the managing entity's plans to execute department strategic plans; carrying out statutorily mandated licensure functions; conducting community and regional substance abuse and mental health planning; communicating to the department the local needs assessed by the managing entity; preparing department strategic plans; coordinating with other state and local agencies; assisting the department in assessing local trends and issues and advising departmental headquarters on local priorities; and providing leadership in disaster planning and preparation.~~

(8) ~~(9)~~ FUNDING FOR MANAGING ENTITIES.—

(a) A contract established between the department and a managing entity under this section shall be funded by general revenue, other applicable state funds, or applicable federal funding sources. A managing entity may carry forward documented

unexpended state funds from one fiscal year to the next; however, the cumulative amount carried forward may not exceed 8 percent of the total contract. Any unexpended state funds in excess of that percentage must be returned to the department. The funds carried forward may not be used in a way that would create increased recurring future obligations or for any program or service that is not currently authorized under the existing contract with the department. Expenditures of funds carried forward must be separately reported to the department. Any unexpended funds that remain at the end of the contract period shall be returned to the department. Funds carried forward may be retained through contract renewals and new procurements as long as the same managing entity is retained by the department.

(b) The method of payment for a fixed-price contract with a managing entity must provide for a 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter.

~~(10) REPORTING.—Reports of the department's activities, progress, and needs in achieving the goal of contracting with managing entities in each circuit and region statewide must be submitted to the appropriate substantive and appropriations committees in the Senate and the House of Representatives on January 1 and July 1 of each year until the full transition to managing entities has been accomplished statewide.~~

(9) ~~(11)~~ RULES.—The department may ~~shall~~ adopt rules to administer this section ~~and, as necessary, to further specify requirements of managing entities~~.

Section 6. Section 397.402, Florida Statutes, is created to read:







397.402 Single, consolidated license.—No later than January 1, 2016, the department shall modify licensure rules and procedures to create an option for a single, consolidated license for a provider that offers multiple types of mental health and substance abuse services regulated under chapters 394 and 397. Providers eligible for a consolidated license must operate these services through a single corporate entity and a unified management structure. Any provider serving both adults and children must meet departmental standards for separate facilities and other requirements necessary to ensure the safety of children and promote therapeutic efficacy.

Section 7. Section 397.427, Florida Statutes, is amended, to read:

397.427 Medication-assisted treatment service providers; rehabilitation program; ~~needs assessment and~~ provision of services; persons authorized to issue takeout medication; unlawful operation; penalty.—

(1) Providers of medication-assisted treatment services for opiate addiction may not be licensed unless they provide supportive rehabilitation programs. Supportive rehabilitation programs include, but are not limited to, counseling, therapy, and vocational rehabilitation.

~~(2) The department shall determine the need for establishing providers of medication-assisted treatment services for opiate addiction.~~

~~(a) Providers of medication-assisted treatment services for opiate addiction may be established only in response to the department's determination and publication of need for additional medication treatment services.~~

~~(b) The department shall prescribe by rule the types of medication-assisted treatment services for opiate addiction for which it is necessary to conduct annual assessments of need. If needs assessment is required, the department shall annually conduct the assessment and publish a statement of findings which identifies each substate entity's need.~~

~~(c) Notwithstanding paragraphs (a) and (b), the license for medication-assisted treatment programs for opiate addiction licensed before October 1, 1990, may not be revoked solely because of the department's determination concerning the need for medication-assisted treatment services for opiate addiction.~~

~~(3) The department shall adopt rules necessary to administer this section, including, but not limited to, rules prescribing criteria and procedures for:~~

~~(a) Determining the need for additional medication-assisted treatment services for opiate addiction.~~

~~(b) Selecting providers for medication-assisted treatment services for opiate addiction when the number of responses to a publication of need exceeds the determined need.~~

~~(c) Administering any federally required rules, regulations, or procedures.~~

(2) ~~(4)~~ A service provider operating in violation of this section is subject to proceedings in accordance with this chapter to enjoin that unlawful operation.

(3) ~~(5)~~ Notwithstanding s. 465.019(2), a physician assistant, a registered nurse, an advanced registered nurse practitioner, or a licensed practical nurse working for a licensed service provider may deliver takeout medication for opiate treatment to persons enrolled in a maintenance treatment





program for medication-assisted treatment for opiate addiction if:

(a) The medication-assisted treatment program for opiate addiction has an appropriate valid permit issued pursuant to rules adopted by the Board of Pharmacy;

(b) The medication for treatment of opiate addiction has been delivered pursuant to a valid prescription written by the program's physician licensed pursuant to chapter 458 or chapter 459;

(c) The medication for treatment of opiate addiction which is ordered appears on a formulary and is prepackaged and prelabeled with dosage instructions and distributed from a source authorized under chapter 499;

(d) Each licensed provider adopts written protocols which provide for supervision of the physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse by a physician licensed pursuant to chapter 458 or chapter 459 and for the procedures by which patients' medications may be delivered by the physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse. Such protocols shall be signed by the supervising physician and either the administering registered nurse, the advanced registered nurse practitioner, or the licensed practical nurse.

(e) Each licensed service provider maintains and has available for inspection by representatives of the Board of Pharmacy all medical records and patient care protocols, including records of medications delivered to patients, in accordance with the board.

(4) ~~(6)~~ The department shall also determine the need for establishing medication-assisted treatment for substance use disorders other than opiate dependence. Service providers within the publicly funded system shall be funded for provision of these services based on the availability of funds.

(5) ~~(7)~~ Service providers that provide medication-assisted treatment for substance abuse other than opiate dependence shall provide counseling services in conjunction with medication-assisted treatment.

(6) ~~(8)~~ The department shall adopt rules necessary to administer medication-assisted treatment services, including, but not limited to, rules prescribing criteria and procedures for:

(a) Determining the need for medication-assisted treatment services within the publicly funded system.

(b) Selecting medication-assisted service providers within the publicly funded system.

(c) Administering any federally required rules, regulations, or procedures related to the provision of medication-assisted treatment.

(7) ~~(9)~~ A physician assistant, a registered nurse, an advanced registered nurse practitioner, or a licensed practical nurse working for a licensed service provider may deliver medication as prescribed by rule if:

(a) The service provider is authorized to provide medication-assisted treatment;

(b) The medication has been administered pursuant to a valid prescription written by the program's physician who is licensed under chapter 458 or chapter 459; and





(c) The medication ordered appears on a formulary or meets federal requirements for medication-assisted treatment.

(8) ~~(10)~~ Each licensed service provider that provides medication-assisted treatment must adopt written protocols as specified by the department and in accordance with federally required rules, regulations, or procedures. The protocol shall provide for the supervision of the physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse working under the supervision of a physician who is licensed under chapter 458 or chapter 459. The protocol must specify how the medication will be used in conjunction with counseling or psychosocial treatment and that the services provided will be included on the treatment plan. The protocol must specify the procedures by which medication-assisted treatment may be administered by the physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse. These protocols shall be signed by the supervising physician and the administering physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse.

(9) ~~(11)~~ Each licensed service provider shall maintain and have available for inspection by representatives of the Board of Pharmacy all medical records and protocols, including records of medications delivered to individuals in accordance with rules of the board.

Section 8. Present paragraphs (d) through (m) of subsection (2) of section 409.967, Florida Statutes, are redesignated as paragraphs (e) through (n), respectively, and a new paragraph (d) is added to that subsection, to read:

409.967 Managed care plan accountability.—

(2) The agency shall establish such contract requirements as are necessary for the operation of the statewide managed care program. In addition to any other provisions the agency may deem necessary, the contract must require:

(d) Quality care.—Managed care plans shall provide, or contract for the provision of, care coordination to facilitate the appropriate delivery of behavioral health care services in the least restrictive setting with treatment and recovery capabilities that address the needs of the patient. Services shall be provided in a manner that integrates behavioral health services and primary care. Plans shall be required to achieve specific behavioral health outcome standards, established by the agency in consultation with the Department of Children and Families.

Section 9. Subsection (5) is added to section 409.973, Florida Statutes, to read:

409.973 Benefits.—

(5) INTEGRATED BEHAVIORAL HEALTH INITIATIVE.—Each plan operating in the managed medical assistance program shall work with the managing entity in its service area to establish specific organizational supports and service protocols that enhance the integration and coordination of primary care and behavioral health services for Medicaid recipients. Progress in this initiative will be measured using the integration framework and core measures developed by the Agency for Healthcare Research and Quality.

Section 10. Paragraph (a) of subsection (1) of section 409.975, Florida Statutes, is amended to read:





409.975 Managed care plan accountability.—In addition to the requirements of s. 409.967, plans and providers participating in the managed medical assistance program shall comply with the requirements of this section.

(1) PROVIDER NETWORKS.—Managed care plans must develop and maintain provider networks that meet the medical needs of their enrollees in accordance with standards established pursuant to s. 409.967(2)(c). Except as provided in this section, managed care plans may limit the providers in their networks based on credentials, quality indicators, and price.

(a) Plans must include all providers in the region that are classified by the agency as essential Medicaid providers, unless the agency approves, in writing, an alternative arrangement for securing the types of services offered by the essential providers. Providers are essential for serving Medicaid enrollees if they offer services that are not available from any other provider within a reasonable access standard, or if they provided a substantial share of the total units of a particular service used by Medicaid patients within the region during the last 3 years and the combined capacity of other service providers in the region is insufficient to meet the total needs of the Medicaid patients. The agency may not classify physicians and other practitioners as essential providers. The agency, at a minimum, shall determine which providers in the following categories are essential Medicaid providers:

1. Federally qualified health centers.

2. Statutory teaching hospitals as defined in s. 408.07(45).

3. Hospitals that are trauma centers as defined in s.

395.4001(14).

4. Hospitals located at least 25 miles from any other hospital with similar services.

5. Publicly funded behavioral health service providers.

Managed care plans that have not contracted with all essential providers in the region as of the first date of recipient enrollment, or with whom an essential provider has terminated its contract, must negotiate in good faith with such essential providers for 1 year or until an agreement is reached, whichever is first. Payments for services rendered by a nonparticipating essential provider shall be made at the applicable Medicaid rate as of the first day of the contract between the agency and the plan. A rate schedule for all essential providers shall be attached to the contract between the agency and the plan. After 1 year, managed care plans that are unable to contract with essential providers shall notify the agency and propose an alternative arrangement for securing the essential services for Medicaid enrollees. The arrangement must rely on contracts with other participating providers, regardless of whether those providers are located within the same region as the nonparticipating essential service provider. If the alternative arrangement is approved by the agency, payments to nonparticipating essential providers after the date of the agency's approval shall equal 90 percent of the applicable Medicaid rate. If the alternative arrangement is not approved by the agency, payment to nonparticipating essential providers shall equal 110 percent of the applicable Medicaid rate.

Section 11. Section 394.4674, Florida Statutes, is







repealed.

Section 12. Section 394.4985, Florida Statutes, is repealed.

Section 13. Section 394.657, Florida Statutes, is repealed.

Section 14. Section 394.745, Florida Statutes, is repealed.

Section 15. Section 394.9084, Florida Statutes, is repealed.

Section 16. Section 397.331, Florida Statutes, is repealed.

Section 17. Section 397.333, Florida Statutes, is repealed.

Section 18. Section 397.801, Florida Statutes, is repealed.

Section 19. Section 397.811, Florida Statutes, is repealed.

Section 20. Section 397.821, Florida Statutes, is repealed.

Section 21. Section 397.901, Florida Statutes, is repealed.

Section 22. Section 397.93, Florida Statutes, is repealed.

Section 23. Section 397.94, Florida Statutes, is repealed.

Section 24. Section 397.951, Florida Statutes, is repealed.

Section 25. Section 397.97, Florida Statutes, is repealed.

Section 26. Subsection (15) of section 397.321, Florida Statutes, is amended to read:

397.321 Duties of the department.—The department shall:

(15) Appoint a substance abuse impairment coordinator to represent the department in efforts initiated by the statewide substance abuse impairment prevention and treatment coordinator ~~established in s. 397.801~~ and to assist the statewide coordinator in fulfilling the responsibilities of that position.

Section 27. Subsection (1) of section 397.98, Florida Statutes, is amended to read:

397.98 Children's substance abuse services; utilization management.—

(1) Utilization management shall be an integral part of each Children's Network of Care Demonstration Model ~~as described under s. 397.97~~. The utilization management process shall include procedures for analyzing the allocation and use of resources by the purchasing agent. Such procedures shall include:

(a) Monitoring the appropriateness of admissions to residential services or other levels of care as determined by the department.

(b) Monitoring the duration of care.

(c) Developing profiles of network providers which describe their patterns of delivering care.

(d) Authorizing care for high-cost services.

Section 28. Paragraph (e) of subsection (3) of section 409.966, Florida Statutes, is amended to read:

409.966 Eligible plans; selection.—

(3) QUALITY SELECTION CRITERIA.—

(e) To ensure managed care plan participation in Regions 1 and 2, the agency shall award an additional contract to each plan with a contract award in Region 1 or Region 2. Such contract shall be in any other region in which the plan submitted a responsive bid and negotiates a rate acceptable to the agency. If a plan that is awarded an additional contract pursuant to this paragraph is subject to penalties pursuant to s. 409.967(2)(i) ~~s. 409.967(2)(h)~~ for activities in Region 1 or Region 2, the additional contract is automatically terminated 180 days after the imposition of the penalties. The plan must reimburse the agency for the cost of enrollment changes and other transition activities.







Section 29. Paragraph (a) of subsection (5) of section 943.031, Florida Statutes, is amended to read:

943.031 Florida Violent Crime and Drug Control Council.—

(5) DUTIES OF COUNCIL.—Subject to funding provided to the department by the Legislature, the council shall provide advice and make recommendations, as necessary, to the executive director of the department.

(a) The council may advise the executive director on the feasibility of undertaking initiatives which include, but are not limited to, the following:

1. Establishing a program that provides grants to criminal justice agencies that develop and implement effective violent crime prevention and investigative programs and which provides grants to law enforcement agencies for the purpose of drug control, criminal gang, and illicit money laundering investigative efforts or task force efforts that are determined by the council to significantly contribute to achieving the state's goal of reducing drug-related crime, that represent significant criminal gang investigative efforts, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council ~~established under s. 397.333~~, subject to the limitations provided in this section. The grant program may include an innovations grant program to provide startup funding for new initiatives by local and state law enforcement agencies to combat violent crime or to implement drug control, criminal gang, or illicit money laundering investigative efforts or task force efforts by law enforcement agencies, including, but not

limited to, initiatives such as:

a. Providing enhanced community-oriented policing.

b. Providing additional undercover officers and other investigative officers to assist with violent crime investigations in emergency situations.

c. Providing funding for multiagency or statewide drug control, criminal gang, or illicit money laundering investigative efforts or task force efforts that cannot be reasonably funded completely by alternative sources and that significantly contribute to achieving the state's goal of reducing drug-related crime, that represent significant criminal gang investigative efforts, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council ~~established under s. 397.333~~.

2. Expanding the use of automated biometric identification systems at the state and local levels.

3. Identifying methods to prevent violent crime.

4. Identifying methods to enhance multiagency or statewide drug control, criminal gang, or illicit money laundering investigative efforts or task force efforts that significantly contribute to achieving the state's goal of reducing drug-related crime, that represent significant criminal gang investigative efforts, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council ~~established under s. 397.333~~.





5. Enhancing criminal justice training programs that address violent crime, drug control, illicit money laundering investigative techniques, or efforts to control and eliminate criminal gangs.

6. Developing and promoting crime prevention services and educational programs that serve the public, including, but not limited to:

a. Enhanced victim and witness counseling services that also provide crisis intervention, information referral, transportation, and emergency financial assistance.

b. A well-publicized rewards program for the apprehension and conviction of criminals who perpetrate violent crimes.

7. Enhancing information sharing and assistance in the criminal justice community by expanding the use of community partnerships and community policing programs. Such expansion may include the use of civilian employees or volunteers to relieve law enforcement officers of clerical work in order to enable the officers to concentrate on street visibility within the community.

Section 30. Subsection (1) of section 943.042, Florida Statutes, is amended to read:

943.042 Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account.—

(1) There is created a Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account within the Department of Law Enforcement Operating Trust Fund. The account shall be used to provide emergency supplemental funds to:

(a) State and local law enforcement agencies that are

involved in complex and lengthy violent crime investigations, or matching funding to multiagency or statewide drug control or illicit money laundering investigative efforts or task force efforts that significantly contribute to achieving the state's goal of reducing drug-related crime, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council ~~established under s. 397.333~~;

(b) State and local law enforcement agencies that are involved in violent crime investigations which constitute a significant emergency within the state; or

(c) Counties that demonstrate a significant hardship or an inability to cover extraordinary expenses associated with a violent crime trial.

Section 31. For the purpose of incorporating the amendment made by this act to section 394.492, Florida Statutes, in a reference thereto, paragraph (a) of subsection (6) of section 39.407, Florida Statutes, is reenacted to read:

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

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only pursuant to this section or may be placed by the court in accordance with an order of involuntary examination or involuntary placement entered pursuant to s.





394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must have a guardian ad litem appointed.

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

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

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

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

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

Section 32. For the purpose of incorporating the amendment made by this act to section 394.492, Florida Statutes, in a reference thereto, subsection (21) of section 394.67, Florida Statutes, is reenacted to read:

394.67 Definitions.—As used in this part, the term:

(21) "Residential treatment center for children and

adolescents" means a 24-hour residential program, including a therapeutic group home, which provides mental health services to emotionally disturbed children or adolescents as defined in s. 394.492(5) or (6) and which is a private for-profit or not-for-profit corporation licensed by the agency which offers a variety of treatment modalities in a more restrictive setting.

Section 33. For the purpose of incorporating the amendment made by this act to section 394.492, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 394.674, Florida Statutes, is reenacted to read:

394.674 Eligibility for publicly funded substance abuse and mental health services; fee collection requirements.—

(1) To be eligible to receive substance abuse and mental health services funded by the department, an individual must be a member of at least one of the department's priority populations approved by the Legislature. The priority populations include:

(b) For children's mental health services:

1. Children who are at risk of emotional disturbance as defined in s. 394.492(4).

2. Children who have an emotional disturbance as defined in s. 394.492(5).

3. Children who have a serious emotional disturbance as defined in s. 394.492(6).

4. Children diagnosed as having a co-occurring substance abuse and emotional disturbance or serious emotional disturbance.

Section 34. For the purpose of incorporating the amendment made by this act to section 394.492, Florida Statutes, in a





reference thereto, subsection (1) of section 394.676, Florida Statutes, is reenacted to read:

394.676 Indigent psychiatric medication program.—

(1) Within legislative appropriations, the department may establish the indigent psychiatric medication program to purchase psychiatric medications for persons as defined in s. 394.492(5) or (6) or pursuant to s. 394.674(1), who do not reside in a state mental health treatment facility or an inpatient unit.

Section 35. For the purpose of incorporating the amendment made by this act to section 394.492, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 409.1676, Florida Statutes, is reenacted to read:

409.1676 Comprehensive residential group care services to children who have extraordinary needs.—

(2) As used in this section, the term:

(c) "Serious behavioral problems" means behaviors of children who have been assessed by a licensed master's-level human-services professional to need at a minimum intensive services but who do not meet the criteria of s. 394.492(7). A child with an emotional disturbance as defined in s. 394.492(5) or (6) may be served in residential group care unless a determination is made by a mental health professional that such a setting is inappropriate. A child having a serious behavioral problem must have been determined in the assessment to have at least one of the following risk factors:

1. An adjudication of delinquency and be on conditional release status with the Department of Juvenile Justice.

2. A history of physical aggression or violent behavior

toward self or others, animals, or property within the past year.

3. A history of setting fires within the past year.

4. A history of multiple episodes of running away from home or placements within the past year.

5. A history of sexual aggression toward other youth.

Section 36. For the purpose of incorporating the amendment made by this act to section 394.492, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 409.1677, Florida Statutes, is reenacted to read:

409.1677 Model comprehensive residential services programs.—

(1) As used in this section, the term:

(b) "Serious behavioral problems" means behaviors of children who have been assessed by a licensed master's-level human-services professional to need at a minimum intensive services but who do not meet the criteria of s. 394.492(6) or (7). A child with an emotional disturbance as defined in s. 394.492(5) may be served in residential group care unless a determination is made by a mental health professional that such a setting is inappropriate.

Section 37. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2015.

**The Florida Senate**

# BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

| | |
|---|---|
| BILL: | SPB 7078 |
| INTRODUCER: | For consideration by the Children, Families, and Elder Affairs Committee |
| SUBJECT: | Child Welfare |
| DATE: | March 31, 2015 REVISED: |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Preston | Hendon | | **Pre-meeting** |

## I. Summary:


Last year, the Legislature passed SB 1666, a major reform of the child welfare system. Among its many provisions, SB 1666:

- Created the Critical Incident Rapid Response Team (CIRRT) to conduct a root-cause analysis of certain child deaths and critical incidents,
- Expanded the number and types of cases reviewed through the Child Abuse Death Review (CADR) process,
- Required multi-agency staffings for cases alleging medical neglect, and
- Created the Florida Institute for Child Welfare (FICW), requiring it to submit an interim report by February 1, 2015.

SPB 7078 addresses issues related to the implementation of SB 1666.

To address the increased volume of cases reviewed through the CADR process and to better align it with the newly created CIRRT process, the SPB clarifies the roles of the two types of committees within the CADR process and imposes specific reporting requirements. The SPB also permits the Secretary of DCF to deploy CIRRTs in response to other child deaths in addition to those with verified abuse and neglect in the last 12 months. The SPB also requires more frequent reviews and reports by the CIRRT advisory committee.

The bill also requires a multi-agency staffing to be convened for cases of alleged medical neglect, clarifying that the staffing shall be convened only if medical neglect is substantiated by the child protection team.

The bill implements FICW interim report recommendations by clarifying Legislative intent to prioritize evidence-based and trauma-informed services.

The bill does not have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2015.

## II. Present Situation:

SB 1666 was passed in 2014 in response to concerns about the number of deaths of children known to the child welfare system. SB 1666 made a number of changes to state law to improve the investigation of and subsequent response to allegations of abuse or neglect. Among those changes were the creation of the Critical Incident Rapid Response Team (CIRTT), expansion of the number and types of cases reviewed through the Child Abuse Death Review (CADR) process, and the creation of the Florida Institute for Child Welfare (FICW).

**Child Abuse Death Review**

The state Child Abuse Death Review (CADR) is a statewide multidisciplinary, multiagency child abuse death assessment and prevention system. The CADR was initiated in 1999 in response to the death of Kayla McKean and legislative concern that, of the 80 children who died from substantiated child abuse or neglect in Florida during 1998, almost one third (32 percent) had prior contact with the child protection system.

The purposes of CADR reviews are to:

- Achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse;
- Develop a communitywide approach to address such cases and contributing factors, whenever possible;
- Identify any gaps, deficiencies, or problems in the delivery of services to children and their families by public and private agencies which may be related to deaths that are the result of child abuse; and
- Make and implement recommendations for changes in law, rules, and policies, as well as develop practice standards that support the safe and healthy development of children and reduce preventable child abuse deaths.

Florida's CADR is a two-tiered review system comprised of the State Child Abuse Death Review Committee and local review committees operating across the state. These committees work cooperatively to review the facts and circumstances surrounding child deaths that are reported through the central abuse hotline.

The State Child Abuse Death Review Committee is housed within the Department of Health (DOH) and consists of representatives from the Department of Health (DOH), the Department of Children and Families (DCF), the Department of Legal Affairs, the Department of Law Enforcement, the Department of Education, the Florida Prosecuting Attorneys Association, Inc., and the Florida Medical Examiners Commission, whose representative must be a forensic pathologist. In addition, the State Surgeon General must appoint the following members to the CADR:

- The Statewide Medical Director for Child Protection;
- A public health nurse;
- A mental health professional who treats children or adolescents;
- An employee of the DCF who supervises family services counselors and who has at least 5 years of experience in child protective investigations;
- A medical director of a child protection team;

- A member of a child advocacy organization;
- A social worker who has experience in working with victims and perpetrators of child abuse;
- A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program;
- A law enforcement officer who has at least 5 years of experience in children's issues;
- A representative of the Florida Coalition Against Domestic Violence; and
- A representative from a private provider of programs on preventing child abuse and neglect.

Local review committees have the primary responsibility of reviewing all child abuse and neglect deaths reported to the child abuse hotline and assisting the state committee in data collection and reporting. The local review committees are comprised of members determined by the state committee and a local state attorney. Statute requires no other staffing requirements or structure for the local review committee.

Prior to the passage of SB 1666, the CADR only reviewed child deaths verified to be the result of abuse or neglect. SB 1666 requires CADR to review all deaths reported to the central abuse hotline. This resulted in an increase in the number of deaths that must be reviewed through this process. For example, in calendar year 2014, 82 deaths were verified to be the result of abuse or neglect out of 440 total deaths reported to the hotline.

Current law establishes the State Child Abuse Death Review Committee and local child abuse death review committees within the Department of Health.[1] The committees must review the facts and circumstances of all deaths of children from birth through age 18 that occurred in Florida and are reported to the central abuse hotline of the Department of Children and Families.[2] The state committee must prepare an annual statistical report on the incidence and causes of death resulting from reported child abuse in the state. The report must include recommendations for:

- State and local action, including specific policy, procedural, regulatory, or statutory changes; and
- Any other recommended preventive action.[3]

The law provides the committees with broad access to any information related to the deceased child, or his or her family, that is necessary to carry out its duties, including:

- Medical, dental, or mental health treatment records;
- Records in the possession of a state agency or political subdivision; and
- Records of law enforcement which are not part of an active investigation.[4]

Records typically obtained by the committees include, among others: death and birth certificates; medical examiner report; law enforcement report; criminal history reports; first responder

[1] Section 383.402, F.S.
[2] Section 383.402(1), F.S.
[3] Section 383.402(3)(c), F.S.
[4] Section 383.412(8) & (9), F.S.

reports; physician, hospital, and/or substance abuse and mental health records; and the Department of Children and Families case file.[5]

**Critical Incident Rapid Response Team**

The Critical Incident Rapid Response Team (CIRRT) process involves an immediate root-cause analysis of critical incidents to rapidly determine the need to change policies and practices related to child protection and welfare. The DCF is required to conduct CIRRT reviews of child deaths if the child or another child in the home was the subject of a verified report of abuse or neglect within the previous 12 months. The DCF is authorized to deploy CIRRT's for other serious incidents reported to the central abuse hotline.

Statute requires that the CIRRT include at least five professionals with expertise in child protection, child welfare, and organizational management. A majority of the team must reside in judicial circuits outside the location of the incident.

An advisory committee of experts in child protection and welfare is tasked with meeting annually to conduct an independent review of the CIRRT reviews and submit an annual report which includes findings and recommendations.

The CIRRTs have been deployed 11 times since 2014. The types of deaths reviewed by CIRRT were caused by inflicted trauma, unsafe sleep, natural causes, and a dog mauling. CIRRT reports have identified issues with process and policies. These issues have prompted immediate changes such as updating the Maltreatment Index to allow for the presence of obvious mental health symptoms to be categorized as problematic and amending related protocol to facilitate immediate response priority for obvious mental health symptoms.

**Medical Neglect**

While there is no definition of the term "medical neglect" in ch. 39, F.S., the definition of "neglect" encompasses cases of medical neglect. Neglect is defined as when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment, or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired.

Section 39.3068, F.S., requires that reports of alleged medical neglect be handled in a prescribed manner. It specifies that:

- Reports of medical neglect must be investigated by staff with specialized training in medical neglect and medically complex children.
- The investigation identifies any immediate medical needs of the child and uses a family-centered approach to assess the capacity of the family to meet those needs.

[5] E-mail from Bryan Wendel, Office of Legislative Planning, Florida Dept. of Health, (August 25, 2014) (on file with the Senate Committee on Health Policy).

- Any investigation of cases involving medically complex children include determination of Medicaid coverage for needed services and coordination with AHCA to secure such covered services.
- A case staffing be convened and attended by staff from DCF's child protective investigations unit, Children's Legal Services, the child protection team, Children's Medical Services, the Agency for Health Care Administration, the community-based care lead agency, and any providers of services to the child.

Currently, the statutory language requires that a multiagency staffing occur on any case that alleges medical neglect, whether or not the allegation was substantiated as medical neglect by the child protection team.

**Community Based Care Organizations**

The DCF contracts for foster care and related services with lead agencies, also known as community-based care organizations (CBCs). The transition to outsourced provision of child welfare services was intended to increase local community ownership of service delivery and design.

Under this localized system, CBCs are responsible for providing foster care and related services. These services include, but are not limited to, family preservation, emergency shelter, and adoption. CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 18 CBCs statewide, which together serve the state's 20 judicial circuits. The law requires DCF to contract with CBCs through a competitive procurement process.

Even under this outsourced system, DCF remains responsible for a number of child welfare functions. These functions include operating the abuse hotline, performing child protective investigations (which determine whether children need to be removed from their homes because of abuse or neglect), and providing child welfare legal services. The DCF is also ultimately responsible for program oversight and the overall performance of the child welfare system.

Each month CBCs are graded by DCF according to their performance on a scorecard. The scorecard evaluates the CBCs on 12 key measures to determine how well the CBCs are meeting the most critical needs of these at-risk children and families. Scorecards are posted online monthly.

Currently, under this privatized care model, many services are provided through contracts with subcontracted service providers. Statute requires the services provided by these contracted entities to be supported by research or be considered best child welfare practices. The statute allows for innovative services such as family-centered, cognitive-behavioral, and trauma-informed.

**Florida Institute for Child Welfare**

The Florida Institute for Child Welfare (FICW) was created by SB 1666 as a consortium of the state's public and private university schools of social work to advance the well-being of children

and families by improving the performance of child protection and child welfare services through research, policy, analysis, evaluation, and leadership development. The FICW is required to submit an annual report that presents significant research findings and results of other programs, and make specific recommendations for improving child protection and child welfare services.

The FICW submitted an interim report on February 1, 2015, in accordance with statute. The report addressed topics including recommendations for the need for a child welfare strategic plan, results oriented accountability, data analytics, safety, permanency, well-being, workforce, and the CIRRT. Most of the interim report's recommendations can be implemented without further statutory authorization. However, statutory changes are needed to implement recommendations that the frequency of the CIRRT advisory committee's reviews increase from annually to quarterly and that evidence-based and trauma-informed services be prioritized in statute.

**Trauma-Informed Practice**

The FICW interim report recommended that evidence-based and trauma-informed practices be prioritized in statute. Children in the child welfare system have often suffered tremendous trauma due to abuse or neglect. This trauma can have a lifelong effect on their physical and mental health, education, relationships, and social function. To provide trauma-informed care to children, youth, and families involved with the child welfare system, professionals must understand the impact of trauma on child development and learn how to effectively minimize its effects without causing additional trauma. Untreated child trauma is a root cause of many of the most pressing problems that communities face, including poverty, crime, low academic achievement, addiction, mental health problems, and poor health outcomes. There are evidence-based treatments and services developed that are highly effective for child traumatic stress; improving access to effective evidence-based treatments for children who experience traumatic stress can reduce suffering and decrease the costs of health care.

## III. Effect of Proposed Changes:

**Child Abuse Death Review**

The bill revises the CADR process in several ways. The bill amends s. 383.3068, F.S., to clarify the intent of the Legislature, specifying the data-based, epidemiological focus of the child abuse death assessment and prevention system as well as clarifying the cooperative roles of the two committees.

**State Committee**

The bill clarifies that the state committee shall provide direction and leadership of the review system, analyze the data and recommendations of the local committees, identify issues and trends within that data and make recommendations for statewide action. The bill also adds a substance abuse treatment professional to the state committee, and limits the number of appointments a member may serve to no more than three consecutive terms.

**Local Committee**

The bill clarifies that the local committee shall conduct individual case reviews, generate information for the state committee, and recommend and implement improvements at the local level. The bill specifies that local committee membership shall include representatives from:

- The local state attorney's office;
- The local DCF child protective investigations unit;
- The DOH child protection team;
- The local CBC;
- Law enforcement;
- The school district;
- A mental health treatment provider;
- A certified domestic violence center;
- A substance abuse treatment provider; and
- Any other members determined by guidelines developed by the state committee.

The bill also requires, to the extent possible, that the individuals involved with a child whose death is being reviewed should be present at the review. It also specifies that reports by local committees contain certain information, such as any systemic issues identified and recommendations for improvement.

**Data and Report**

The bill requires the use of the Child Death Review Case Reporting System administered by the National Center for the Review and Prevention of Child Deaths. It also specifies that the data in the annual state committee report must be presented on an individual calendar year basis and in the context of a multi-year trend.

The report must include:

- Descriptive statistics;
- A detailed analysis of the incidence and causes of death;
- Specific issues identified in current policy, procedure, regulation or statute and recommendations to address them from both the state and local committees; and
- Other recommendations to prevent deaths from child abuse based on the reported data.

**Critical Incident Rapid Response Team**

The bill amends s. 39.2015, F.S., to allow a CIRRT to be deployed, at the secretary's discretion, for other child deaths besides those with a verified report of abuse or neglect in the last 12 months, to include those where there was an open investigation. The bill also requires the CIRRT advisory committee to meet quarterly and submit quarterly reports. This will allow more rapid identification of and response to trends surfaced through the CIRRT process.

**Medical Neglect**

The bill amends s. 39.3068, F.S., and requires a multi-agency staffing to be convened for cases of alleged medical neglect, clarifying that the staffing shall be convened only if medical neglect is substantiated by the child protection team.

**Community-Based Care Organizations**

The bill amends s. 409.986, F.S., to clarify legislative intent that CBC's prioritize use of evidence-based and trauma-informed services. The bill also amends s. 409.988, F.S., to require use of trauma-informed services by CBC's.

The bill provides an effective date of July 1, 2015.

## IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

## V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Requiring trauma-informed services may necessitate CBC's amending contracts with subcontractors providing direct services to children to include this requirement, if their contracts do not currently do so. SPB 7078 does not provide a definition of "trauma-informed."

C. Government Sector Impact:

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 39.205, 39.3068, 383.402, and 409.988,

## IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

**FOR CONSIDERATION By** the Committee on Children, Families, and Elder Affairs

586-02951-15 20157078pb

A bill to be entitled

An act relating to child welfare; amending s. 39.2015, F.S.; authorizing critical incident rapid response teams to review cases of child deaths occurring during an open investigation; requiring the advisory committee to meet quarterly and submit quarterly reports; amending s. 39.3068, F.S.; requiring case staffing when medical neglect is substantiated; amending s. 383.402, F.S.; requiring an epidemiological child abuse death assessment and prevention system; providing intent for the operation of and interaction between the state and local death review committees; limiting members of the state committee to terms of 2 years, not to exceed three consecutive terms; requiring the committee to elect a chairperson and authorizing specified duties of the chairperson; providing for per diem and reimbursement of expenses; specifying duties of the state committee; deleting obsolete provisions; providing for the convening of county or multicounty local review committees and support by the county health department directors; specifying membership and duties of local review committees; requiring an annual statistical report; specifying that certain responsibilities of the Department of Children and Families are to be administered at the regional level, rather than at the district level; amending s. 409.986, F.S.; revising legislative intent to require community-based care lead agencies to give priority to the use of evidence-







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based and trauma-informed services; amending s. 409.988; requiring lead agencies to give priority to the use of evidence-based and trauma-informed services; providing an effective date.

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

Section 1. Subsections (2) and (11) of section 39.2015, Florida Statutes, are amended to read:

39.2015 Critical incident rapid response team.—

(2) An immediate onsite investigation conducted by a critical incident rapid response team is required for all child deaths reported to the department if the child or another child in his or her family was the subject of a verified report of suspected abuse or neglect during the previous 12 months. The secretary may direct an immediate investigation for other cases involving death or serious injury to a child, including, but not limited to, a death or serious injury occurring during an open investigation.

(11) The secretary shall appoint an advisory committee made up of experts in child protection and child welfare, including the Statewide Medical Director for Child Protection under the Department of Health, a representative from the institute established pursuant to s. 1004.615, an expert in organizational management, and an attorney with experience in child welfare, to conduct an independent review of investigative reports from the critical incident rapid response teams and to make recommendations to improve policies and practices related to child protection and child welfare services. The advisory

committee shall meet at least once each quarter and ~~By October 1 of each year, the advisory committee~~ shall submit quarterly reports ~~a report~~ to the secretary which include ~~includes~~ findings and recommendations. The secretary shall submit each ~~the~~ report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 2. Subsection (3) of section 39.3068, Florida Statutes, is amended to read:

39.3068 Reports of medical neglect.—

(3) The child shall be evaluated by the child protection team as soon as practicable. If ~~After receipt of the report from~~ the child protection team reports that medical neglect is substantiated, the department shall convene a case staffing which shall be attended, at a minimum, by the child protective investigator; department legal staff; and representatives from the child protection team that evaluated the child, Children's Medical Services, the Agency for Health Care Administration, the community-based care lead agency, and any providers of services to the child. However, the Agency for Health Care Administration is not required to attend the staffing if the child is not Medicaid eligible. The staffing shall consider, at a minimum, available services, given the family's eligibility for services; services that are effective in addressing conditions leading to medical neglect allegations; and services that would enable the child to safely remain at home. Any services that are available and effective shall be provided.

Section 3. Section 383.402, Florida Statutes, is amended to read:

383.402 Child abuse death review; State Child Abuse Death







Review Committee; local child abuse death review committees.—

(1) INTENT.—It is the intent of the Legislature to establish a statewide multidisciplinary, multiagency, epidemiological child abuse death assessment and prevention system that consists of state and local review committees. The ~~state and local review~~ committees shall review the facts and circumstances of all deaths of children from birth to ~~through~~ age 18 which occur in this state and are reported to the central abuse hotline of the Department of Children and Families. The state and local review committees shall work cooperatively. The primary function of the state review committee is to provide direction and leadership for the review system and to analyze data and recommendations from local review committees to identify issues and trends and to recommend statewide action. The primary function of the local review committees is to conduct individual case reviews of deaths, generate information, make recommendations, and implement improvements at the local level. Each case ~~The purpose of the~~ review must use a data-based, epidemiological approach ~~shall be~~ to:

(a) Achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse.

(b) Whenever possible, develop a communitywide approach to address such causes ~~cases~~ and contributing factors.

(c) Identify any gaps, deficiencies, or problems in the delivery of services to children and their families by public and private agencies which may be related to deaths that are the result of child abuse.

(d) Recommend ~~Make and implement recommendations for~~ changes in law, rules, and policies at the state and local

levels, as well as develop practice standards that support the safe and healthy development of children and reduce preventable child abuse deaths.

(e) Implement approved recommendations, to the extent possible.

(2) STATE CHILD ABUSE DEATH REVIEW COMMITTEE.—

(a) *Membership.*—

1. The State Child Abuse Death Review Committee is established within the Department of Health and shall consist of a representative of the Department of Health, appointed by the State Surgeon General, who shall serve as the state committee coordinator. The head of each of the following agencies or organizations shall also appoint a representative to the state committee:

a.~~1.~~ The Department of Legal Affairs.

b.~~2.~~ The Department of Children and Families.

c.~~3.~~ The Department of Law Enforcement.

d.~~4.~~ The Department of Education.

e.~~5.~~ The Florida Prosecuting Attorneys Association, Inc.

f.~~6.~~ The Florida Medical Examiners Commission, whose representative must be a forensic pathologist.

2.~~(b)~~ In addition, the State Surgeon General shall appoint the following members to the state committee, based on recommendations from the Department of Health and the agencies listed in subparagraph 1. ~~paragraph (a)~~, and ensuring that the committee represents the regional, gender, and ethnic diversity of the state to the greatest extent possible:

a.~~1.~~ The Department of Health Statewide Child Protection Team Medical Director ~~for Child Protection~~.





b.~~2.~~ A public health nurse.

c.~~3.~~ A mental health professional who treats children or adolescents.

d.~~4.~~ An employee of the Department of Children and Families who supervises family services counselors and who has at least 5 years of experience in child protective investigations.

e.~~5.~~ The medical director of a child protection team.

f.~~6.~~ A member of a child advocacy organization.

g.~~7.~~ A social worker who has experience in working with victims and perpetrators of child abuse.

h.~~8.~~ A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.

i.~~9.~~ A law enforcement officer who has at least 5 years of experience in children's issues.

j.~~10.~~ A representative of the Florida Coalition Against Domestic Violence.

k.~~11.~~ A representative from a private provider of programs on preventing child abuse and neglect.

l. A substance abuse treatment professional.

3. The members of the state committee shall be appointed to staggered terms not to exceed 2 years each, as determined by the State Surgeon General. Members may be appointed to no more than three consecutive terms. The state committee shall elect a chairperson from among its members to serve for a 2-year term, and the chairperson may appoint ad hoc committees as necessary to carry out the duties of the committee.

4. Members of the state committee shall serve without compensation but may receive reimbursement for per diem and travel expenses incurred in the performance of their duties as

provided in s. 112.061 and to the extent that funds are available.

(b) ~~(3)~~ *Duties.*—The State Child Abuse Death Review Committee shall:

1. ~~(a)~~ Develop a system for collecting data from local committees on deaths that are reported to the central abuse hotline ~~the result of child abuse~~. The system must include a protocol for the uniform collection of data statewide, which must, at a minimum, use the National Child Death Review Case Reporting System administered by the National Center for the Review and Prevention of Child Deaths ~~uses existing data-collection systems to the greatest extent possible~~.

2. ~~(b)~~ Provide training to cooperating agencies, individuals, and local child abuse death review committees on the use of the child abuse death data system.

~~(c) Prepare an annual statistical report on the incidence and causes of death resulting from reported child abuse in the state during the prior calendar year. The state committee shall submit a copy of the report by October 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include recommendations for state and local action, including specific policy, procedural, regulatory, or statutory changes, and any other recommended preventive action.~~

3. ~~(d)~~ Provide training to local child abuse death review committee members on the dynamics and impact of domestic violence, substance abuse, or mental health disorders when there is a co-occurrence of child abuse. Training must ~~shall~~ be provided by the Florida Coalition Against Domestic Violence, the







Florida Alcohol and Drug Abuse Association, and the Florida Council for Community Mental Health in each entity's respective area of expertise.

4. ~~(e)~~ Develop statewide uniform guidelines, standards, and protocols, including a protocol for standardized data collection~~,~~ and reporting, for local child abuse death review committees~~,~~ and provide training and technical assistance to local committees.

5. ~~(f)~~ Develop statewide uniform guidelines for reviewing deaths that are the result of child abuse, including guidelines to be used by law enforcement agencies, prosecutors, medical examiners, health care practitioners, health care facilities, and social service agencies.

6. ~~(g)~~ Study the adequacy of laws, rules, training, and services to determine what changes are needed to decrease the incidence of child abuse deaths and develop strategies and recruit partners to implement these changes.

7. ~~(h)~~ Provide consultation on individual cases to local committees upon request.

8. ~~(i)~~ Educate the public regarding the provisions of chapter 99-168, Laws of Florida, the incidence and causes of child abuse death, and ways by which such deaths may be prevented.

9. ~~(j)~~ Promote continuing education for professionals who investigate, treat, and prevent child abuse or neglect.

10. ~~(k)~~ Recommend, when appropriate, the review of the death certificate of a child who died as a result of abuse or neglect.

~~(4) The members of the state committee shall be appointed to staggered terms of office which may not exceed 2 years, as~~

~~determined by the State Surgeon General. Members are eligible for 2 reappointments. The state committee shall elect a chairperson from among its members to serve for a 2-year term, and the chairperson may appoint ad hoc committees as necessary to carry out the duties of the committee.~~

~~(5) Members of the state committee shall serve without compensation but are entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061 and to the extent that funds are available.~~

(3) ~~(6)~~ LOCAL DEATH REVIEW COMMITTEES.—At the direction of the State Surgeon General, a county or multicounty death review committee shall be convened and supported by the county health department directors ~~the director of each county health department, or the directors of two or more county health departments by agreement, may convene and support a county or multicounty child abuse death review committee~~ in accordance with the protocols established by the State Child Abuse Death Review Committee.

(a) *Membership.*—Each local committee must include local representatives from:

1. The state attorney's office. ~~a local state attorney, or his or her designee, and~~

2. The medical examiner's office.

3. The local Department of Children and Families child protective investigations unit.

4. The Department of Health child protection team.

5. The community-based care lead agency.

6. State, county, or local law enforcement agencies.





7. The school district.

8. A mental health treatment provider.

9. A certified domestic violence center.

10. A substance abuse treatment provider.

11. Any other members that are determined by guidelines developed by the State Child Abuse Death Review Committee.

To the extent possible, individuals from these organizations or entities who, in a professional capacity, dealt with a child whose death is verified as caused by abuse or neglect, or with the family of the child, shall attend any meetings where the child's case is reviewed. The members of a local committee shall be appointed to 2-year terms and may be reappointed. ~~The local committee shall elect a chairperson from among its members.~~ Members shall serve without compensation but may receive ~~are entitled to~~ reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061 and to the extent that funds are available.

(b) ~~(7)~~ *Duties.*—Each local child abuse death review committee shall:

1. ~~(a)~~ Assist the state committee in collecting data on deaths that are the result of child abuse, in accordance with the protocol established by the state committee. The local committee shall complete, to the fullest extent possible, the individual case report in the National Child Death Review Case Reporting System.

2. ~~(b)~~ Submit written reports as required by ~~at the direction of~~ the state committee. The reports must include:

a. Nonidentifying information from ~~on~~ individual cases.

b. Identification of any problems with the data system uncovered through the review process and the committee's recommendations for system improvements and needed resources, training, and information dissemination, where gaps or deficiencies may exist. ~~and~~

c. All ~~the~~ steps taken by the local committee and private and public agencies to implement necessary changes and improve the coordination of services and reviews.

3.~~(c)~~ Submit all records requested by the state committee at the conclusion of its review of a death resulting from child abuse.

4.~~(d)~~ Abide by the standards and protocols developed by the state committee.

5.~~(c)~~ On a case-by-case basis, request that the state committee review the data of a particular case.

(4) ANNUAL STATISTICAL REPORT.—The state committee shall prepare and submit a comprehensive statistical report by October 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes data, trends, analysis, findings, and recommendations for state and local action regarding deaths from child abuse. Data must be presented on an individual calendar year basis and in the context of a multiyear trend. At a minimum, the report must include:

(a) Descriptive statistics, including demographic information regarding victims and caregivers, and the causes and nature of deaths.

(b) A detailed statistical analysis of the incidence and causes of deaths.





(c) Specific issues identified within current policy, procedure, rule, or statute and recommendations to address those issues from both the state and local committees.

(d) Other recommendations to prevent deaths from child abuse based on an analysis of the data presented in the report.

(5)~~(8)~~ ACCESS TO AND USE OF RECORDS.—

(a) Notwithstanding any other law, the chairperson of the State Child Abuse Death Review Committee, or the chairperson of a local committee, shall be provided with access to any information or records that pertain to a child whose death is being reviewed by the committee and that are necessary for the committee to carry out its duties, including information or records that pertain to the child's family, as follows:

1.~~(a)~~ Patient records in the possession of a public or private provider of medical, dental, or mental health care, including, but not limited to, a facility licensed under chapter 393, chapter 394, or chapter 395, or a health care practitioner as defined in s. 456.001. Providers may charge a fee for copies not to exceed 50 cents per page for paper records and $1 per fiche for microfiche records.

2.~~(b)~~ Information or records of any state agency or political subdivision which might assist a committee in reviewing a child's death, including, but not limited to, information or records of the Department of Children and Families, the Department of Health, the Department of Education, or the Department of Juvenile Justice.

(b)~~(9)~~ The State Child Abuse Death Review Committee or a local committee shall have access to all information of a law enforcement agency which is not the subject of an active

investigation and which pertains to the review of the death of a child. A committee may not disclose any information that is not subject to public disclosure by the law enforcement agency, and active criminal intelligence information or criminal investigative information, as defined in s. 119.011(3), may not be made available for review or access under this section.

(c) ~~(10)~~ The state committee and any local committee may share with each other any relevant information that pertains to the review of the death of a child.

(d) ~~(11)~~ A member of the state committee or a local committee may not contact, interview, or obtain information by request or subpoena directly from a member of a deceased child's family as part of a committee's review of a child abuse death, except that if a committee member is also a public officer or state employee, that member may contact, interview, or obtain information from a member of the deceased child's family, if necessary, as part of the committee's review. A member of the deceased child's family may voluntarily provide records or information to the state committee or a local committee.

(e) ~~(12)~~ The chairperson of the State Child Abuse Death Review Committee may require the production of records by requesting a subpoena, through the Department of Legal Affairs, in any county of the state. Such subpoena is effective throughout the state and may be served by any sheriff. Failure to obey the subpoena is punishable as provided by law.

(f) ~~(13)~~ This section does not authorize the members of the state committee or any local committee to have access to any grand jury proceedings.

(g) ~~(14)~~ A person who has attended a meeting of the state





committee or a local committee or who has otherwise participated in activities authorized by this section may not be permitted or required to testify in any civil, criminal, or administrative proceeding as to any records or information produced or presented to a committee during meetings or other activities authorized by this section. However, this subsection does not prevent any person who testifies before the committee or who is a member of the committee from testifying as to matters otherwise within his or her knowledge. An organization, institution, committee member, or other person who furnishes information, data, reports, or records to the state committee or a local committee is not liable for damages to any person and is not subject to any other civil, criminal, or administrative recourse. This subsection does not apply to any person who admits to committing a crime.

(6) ~~(15)~~ DEPARTMENT OF HEALTH RESPONSIBILITIES.—

(a) The Department of Health shall administer the funds appropriated to operate the review committees and may apply for grants and accept donations.

(b) ~~(16)~~ To the extent that funds are available, the Department of Health may hire staff or consultants to assist a review committee in performing its duties. Funds may also be used to reimburse reasonable expenses of the staff and consultants for the state committee and the local committees.

(c) ~~(17)~~ For the purpose of carrying out the responsibilities assigned to the State Child Abuse Death Review Committee and the local review committees, the State Surgeon General may substitute an existing entity whose function and organization includes ~~include~~ the function and organization of

the committees established by this section.

(7) ~~(18)~~ DEPARTMENT OF CHILDREN AND FAMILIES RESPONSIBILITIES.—Each regional managing director ~~district administrator~~ of the Department of Children and Families must appoint a child abuse death review coordinator for the region ~~district~~. The coordinator must have knowledge and expertise in the area of child abuse and neglect. The coordinator's general responsibilities include:

(a) Coordinating with the local child abuse death review committee.

(b) Ensuring the appropriate implementation of the child abuse death review process and all regional ~~district~~ activities related to the review of child abuse deaths.

(c) Working with the committee to ensure that the reviews are thorough and that all issues are appropriately addressed.

(d) Maintaining a system of logging child abuse deaths covered by this procedure and tracking cases during the child abuse death review process.

(e) Conducting or arranging for a Florida Safe Families Network ~~Abuse Hotline Information System (FAHIS)~~ record check on all child abuse deaths covered by this procedure to determine whether there were any prior reports concerning the child or concerning any siblings, other children, or adults in the home.

(f) Coordinating child abuse death review activities, as needed, with individuals in the community and the Department of Health.

(g) Notifying the regional managing director ~~district administrator~~, the Secretary of Children and Families, the Department of Health Deputy Secretary for Health and Deputy







State Health Officer for Children's Medical Services, and the Department of Health Child Abuse Death Review Coordinator of all ~~child abuse~~ deaths meeting criteria for review as specified in this section within 1 working day after case closure ~~verifying the child's death was due to abuse, neglect, or abandonment~~.

(h) Ensuring that all critical issues identified by the local child abuse death review committee are brought to the attention of the regional managing director ~~district administrator~~ and the Secretary of Children and Families.

(i) Providing technical assistance to the local child abuse death review committee during the review of any child abuse death.

Section 4. Paragraph (a) of subsection (1) of section 409.986, Florida Statutes, is amended to read:

409.986 Legislative findings and intent; child protection and child welfare outcomes; definitions.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) It is the intent of the Legislature that the Department of Children and Families provide child protection and child welfare services to children through contracting with community-based care lead agencies. The community-based lead agencies shall give priority to the use of services that are evidence-based and trauma-informed. Counties that provide children and family services with at least 40 licensed residential group care beds by July 1, 2003, and that provide at least $2 million annually in county general revenue funds to supplement foster and family care services shall continue to contract directly with the state. It is the further intent of the Legislature that communities have responsibility for and participate in ensuring

safety, permanence, and well-being for all children in the state.

Section 5. Subsection (3) of section 409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—

(3) SERVICES.—A lead agency must provide ~~serve~~ dependent children with ~~through~~ services that are supported by research or that are recognized as best practices in the ~~best~~ child welfare field ~~practices~~. The agency shall give priority to the use of services that are evidence-based and trauma-informed and may also provide other innovative services, including, but not limited to, family-centered and~~,~~ cognitive-behavioral~~, trauma-informed~~ interventions designed to mitigate out-of-home placements.

Section 6. This act shall take effect July 1, 2015.