

Committee on Children, Families, and Elder Affairs

CS/SB 12 — Mental Health and Substance Abuse

by Appropriations Committee and Senators Garcia, Galvano and Ring

The bill addresses Florida’s system for the delivery of behavioral health services. The bill provides for mental health services for children, parents, and others seeking custody of children involved in dependency court proceedings. The bill identifies the components of a coordinated system of care to be provided for individuals with mental illness or substance use disorder and defines a “No Wrong Door” model for accessing care.

The Agency for Health Care Administration (AHCA) and the Department of Children and Families (DCF) are directed to modify licensure requirements through the rulemaking process if possible, to create an option for a single, consolidated license to provide both mental health and substance use disorder services. For modifications requiring statutory revisions, the agency and the department shall produce a plan for consolidation to the Legislature by November 1, 2016.

Additionally, by December 31, 2016, AHCA and DCF are directed to develop a plan to increase federal funding for behavioral health care; compile detailed documentation of the cost and reimbursements for Medicaid covered services provided to Medicaid eligible individuals by providers of behavioral health care services. If the report provides clear and convincing evidence that Medicaid reimbursements are less than the costs of providing services, the agency and the department shall request additional trust fund authority necessary to draw down Medicaid funds as a match for the documented general revenue expenditures supporting covered services delivered to eligible individuals.

To more closely align the Baker Act (mental illness) and Marchman Act (substance abuse), the bill modifies the legal procedures and timelines, as well as processes for assessment, evaluation, and provision of services.

The duties and responsibilities of DCF are revised for the contract and oversight of the managing entities^[1]. The duties and responsibilities of the managing entities are also revised. The new duties include, among others, the requirement to conduct a community behavioral health care needs assessment every three years in the geographic area served by the managing entity; determine the optimal array of services to meet the needs identified in the needs assessment and develop strategies to divert people with mental illness or substance use disorder from the criminal justice system and collaborate with the Department of Juvenile Justice and the state court system to integrate behavioral health services with the child welfare system.

By September 1 of each year, beginning in 2017, each managing entity is required to develop and submit a plan to the department describing the strategies for enhancing services and addressing three to five priority needs in the service area. The plans must be developed with input from consumers and their families, local governments, local law enforcement agencies, and other stakeholders.

The department is directed to update the crisis stabilization services utilization database. The database is renamed the acute care services utilization database. Managing entities are required to collect utilization data from all public receiving facilities situated within its geographical service area and all detoxification and addictions receiving facilities under contract with the managing entity.

The bill allows a crisis stabilization unit, a short-term residential treatment facility, or an integrated adult mental health crisis stabilization and addictions receiving facility that is collocated with a centralized receiving facility to be in a multi-story building and may be authorized on floors other than the ground floor.

The department is to develop certain forms to be used by law enforcement for use when a person is taken into custody under chapter 397. The department is also to develop a website and post standard forms to be used to file a petition for involuntary admission under the Marchman Act.

The bill has a fiscal impact of \$400,000 in nonrecurring funds from the Operations and Maintenance Trust Fund to DCF for the purpose of modifying the existing crisis stabilization database to collect and analyze data and information pursuant to s. 397.321, F.S.

If approved by the Governor, these provisions take effect July 1, 2016

[\[1\]](#) See s. 394.9082, F.S. A managing entity is a not-for-profit corporation organized in Florida which is under contract with 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.

Vote: Senate 38-0; House 118-1

Committee on Children, Families, and Elder Affairs

CS/CS/SB 202 — Florida Association of Centers for Independent Living

by Fiscal Policy Committee; Children, Families, and Elder Affairs Committee; and Senator Bean

The bill renames the James Patrick Memorial Work Incentive Personal Attendant Services Program as the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program. The bill expands the program to provide other supports and services, such as adaptive technology and transportation, in addition to providing a personal care attendant to disabled adults to assist them in securing and maintaining employment. The bill changes an existing oversight group to an oversight council and revises its membership and responsibilities. The Florida Association for Independent Living will continue to provide administrative support and may use up to 12 percent of the funds deposited in the Florida Endowment Foundation for Vocational Rehabilitation (the Able Trust) for the program. The bill also increases the amount provided to each state attorney that participates in the tax collection enforcement diversion program from \$50,000 to \$75,000 each year.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 113-0

Committee on Children, Families, and Elder Affairs

CS/CS/CS/SB 232 — Guardianship

by Fiscal Policy Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee; and Senators Detert, Joyner, Margolis, Gardiner, Abruzzo, Altman, Bean, Benacquisto, Bradley, Brandes, Braynon, Bullard, Clemens, Dean, Diaz de la Portilla, Evers, Flores, Gaetz, Galvano, Garcia, Gibson, Grimsley, Hays, Hukill, Hutson, Latvala, Lee, Legg, Montford, Negron, Richter, Ring, Sachs, Simmons, Simpson, Smith, Sobel, Soto, Stargel, and Thompson

The bill expands and renames the Statewide Public Guardianship Office within the Department of Elder Affairs (DOEA) as the Office of Public and Professional Guardians. The office is given the additional responsibility of writing the rules for the administration of the regulation of professional guardians. Professional guardians have not previously been closely regulated by the state. The newly titled office remains housed within the Department of Elder Affairs (DOEA) and the executive director, an appointee of the Secretary of the DOEA, will oversee the newly formed office.

The bill establishes additional duties and responsibilities of the executive director and the office, including disciplinary and enforcement powers. The bill requires the annual registration of professional guardians, including \$100 registration and \$25 credit investigation fees.

The Office of Public and Professional Guardians is directed to adopt rules to establish standards of practice for public and professional guardians, receive and investigate complaints, establish procedures for disciplinary oversight, conduct hearings, specify penalties, and take administrative action pursuant to chapter 120, F.S.

The bill provides for Fiscal Year 2016-2017, 6 full-time positions and an appropriation of \$698,153 in recurring funds and \$123,517 in nonrecurring funds from the General Revenue Fund to DOEA for the purpose of carrying out the oversight and monitoring responsibilities of the office.

These provisions became law upon approval by the Governor on March 10, 2016.

Vote: Senate 40-0; House 115-2

Committee on Children, Families, and Elder Affairs

HB 241 — Children and Youth Cabinet

by Rep. Harrell (SB 500 by Senator Montford)

The bill (Chapter 2016-19, L.O.F.) adds a superintendent of schools to the membership of the Florida Children and Youth Cabinet. The superintendent is to be appointed by the Governor.

These provisions were approved by the Governor and take effect July 1, 2016.

Vote: Senate 40-0; House 115-2

Committee on Children, Families, and Elder Affairs

CS/CS/CS/SB 590 — Adoption

by Fiscal Policy Committee; Judiciary Committee; Children, Families, and Elder Affairs Committee and Senators Detert and Gaetz

The bill revises the definition “abandoned” or “abandonment” in Chapter 39, F.S., to provide that a man’s acknowledgement of paternity of the child does not limit the period of time considered in determining whether the child was abandoned. Additionally, the definition of “parent” in Chapter 39, F.S., was revised to clarify that the term “parent” does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent except in certain conditions.

The bill revises the circumstances under which an adoption consent is valid, binding and enforceable; amends the factors a court must consider in determining whether the best interests of the child are served by transferring custody to a prospective adoptive parent chosen by the parent or adoptive entity; authorizes the court to establish reasonable timelines for the transfer of custody; and requires the court to provide written notice to a parent of his or her right to participate in a private adoption plan earlier in the process than currently required by law.

According to the Department of Children and Families, the bill is not expected to impact state funds. However, according to the Office of State Courts Administrator the bill is expected to have an indeterminate negative impact on judicial workloads.

If approved by the Governor, these provisions take effect July 1, 2016

Vote: Senate 36-0; House 119-0

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Children, Families, and Elder Affairs

SB 628 — Fees for Records

by Senator Richter

The bill adds the Agency for Persons with Disabilities to the list of specified state entities and vendors that pay a reduced fee per record for state and national criminal history information for each name submitted to the Florida Department of Law Enforcement (FDLE).

If approved by the Governor, these provisions take effect July 1, 2016

Vote: Senate 40-0; House 116-0

Committee on Children, Families, and Elder Affairs

CS/SB 860 — Foster Families

by Children, Families, and Elder Affairs Committee and Senator Detert

The bill designates the second week of February of each year as “Foster Family Appreciation Week,” to recognize the enduring and invaluable contributions that foster parents provide to the children in their care and to the future of the state.

The bill encourages the Department of Children and Families, local governments, and other entities to sponsor events to promote awareness of the contributions made by foster

families to the vitality of the state.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 36-0; House 118-1

Committee on Children, Families, and Elder Affairs

CS/HB 977 — Behavioral Health Workforce

by Health Quality Subcommittee and Reps. Peters, Pigman and others (CS/CS/SB 1250 by Appropriations Committee; Children, Families, and Elder Affairs Committee and Senator Grimsley)

This bill expands the behavioral health workforce, recognizes the need for additional psychiatrists as a critical state concern, integrates primary care and psychiatry, and allows persons with disqualifying offenses that occurred five or more years ago to work under the supervision of certain qualified personnel until a final determination regarding the request for an exemption from disqualification is made.

The bill modifies the process of retaining a patient in a receiving facility, or placing a patient in a treatment facility under the Baker Act, by allowing the psychiatrist providing the first opinion and the psychiatrist or clinical psychologist providing a second opinion to examine the patient through electronic means. Currently, only the psychiatrist or clinical psychologist providing a second opinion may perform an examination electronically.

The bill provides that persons employed directly or under contract with the Department of Corrections (DOC) in an inmate substance abuse program are exempt from a fingerprinting and background check requirement unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled.

The bill expands who is eligible to be a service provider in a substance abuse program by allowing persons who have had a disqualifying offense that occurred five or more years ago and who have requested an exemption from disqualification to work with adults with substance abuse disorders.

This bill allows physicians licensed under chapters 458 and 459 the discretion to dispense medications or prescribe a controlled substance regulated under chapter 893 on the premises of a registered pain-management clinic.

The bill allows a psychiatric nurse, as defined in s. 394.455, and working within the framework of an established protocol with a psychiatrist, to prescribe psychotropic controlled substances for the treatment of mental disorders. Grounds for discipline or denial of a license for psychiatric nurses for violations of such prescription duties are included in the bill.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 111-0

Committee on Children, Families, and Elder Affairs

CS/CS/HB 1083 — Agency for Persons with Disabilities

by Appropriations Committee; Health and Human Services Committee; and Rep. Renner and others (CS/SB 7054 by Appropriations Committee; Children, Families, and Elder Affairs Committee)

The bill amends s. 393.065(5), F.S., to make changes to the waiver waiting list prioritization categories. The bill allows individuals with developmental disabilities needing both waiver and extended foster care child welfare services to be prioritized in Category 2 and, when enrolled on the waiver, to be served by both the Agency for Persons with Disabilities (APD) and community-based care organizations. The bill permits waiver enrollment without first being placed on the waiting list for individuals who were on a home and community-based waiver services (HCBS) program in another state and whose parent or guardian is an active-duty military service member transferred into the state. The bill provides that individuals remaining on the waiting list after other individuals are added are not substantially affected by agency action and not entitled to a hearing under s. 393.125, F.S., or administrative proceeding under chapter 120, F.S. Rulemaking authority is provided to specify tools for prioritizing waiver enrollment within categories.

Additionally, the bill allows increases in funding for waiver enrollees' services if they have a significant need for transportation to waiver-funded adult day training or employment services and have no other reasonable transportation options.

Section 393.067, F.S., requires APD to license comprehensive transitional education programs (CTEPs). The FY 2015-16 implementing bill amended s. 393.067, F.S., to remove a requirement that APD must contract for residential services with facilities licensed prior to October 1, 1989. The FY 2015-16 implementing bill also amended s. 393.18, F.S., to delete language restricting APD's ability to license new CTEP providers. Prior to the implementing bill, these two provisions operated to create a monopoly for one provider. The amendments to these statutes will expire and revert to the original language on July 1, 2016. The bill repeals those expiration and reversion clauses, allowing the amended language of ss. 393.067 and 393.18, F.S., from Chapter 2015-222, Laws of Florida, to remain law.

Section 393.11, F.S., authorizes involuntary admission of persons with intellectual disabilities and autism that require residential services. However, a 2015 Florida Supreme Court ruling found that current law does not address the agency's duty to perform periodic reviews of continued involuntary admission with the duty to consider appropriate placement and provision of services and the authority to order release. This bill directs APD to have people involuntarily admitted into residential services to be evaluated by a qualified evaluator and provide the evaluations to the court for consideration of placement and services.

The bill requires contracted waiver services providers to use any APD data management systems to document service provision to APD clients and to have required hardware and software for doing so; they must also comply APD's requirements for provider staff training and professional development. The bill also adds Down syndrome to the definition of "developmental

disability.” Such individuals already are eligible for HCBS waiver services under that diagnosis and also may qualify for services due to intellectual disability.

If approved by the Governor, these provisions take effect July 1, 2016, except as otherwise provided in the bill.

Vote: Senate 39-0; House 117-0

Committee on Children, Families, and Elder Affairs

CS/CS/CS/HB 1125 — Eligibility for Employment as Child Care Personnel

by Health and Human Services Committee; Criminal Justice Subcommittee; Children, Families, and Seniors Subcommittee; and Rep. McBurney and others (CS/SB 1420 by Children, Families, and Elder Affairs Committee and Senators Bean and Gaetz)

The bill prohibits the Department of Children and Families from removing a disqualification from employment or granting exemption for employment as child care personnel to persons who have been:

- Registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) and are subject to the registration requirements under the Adam Walsh Child Protection and Safety Act; or
- Arrested for and are awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for certain state felonies and misdemeanors enumerated in the bill. The list of crimes in the bill is more comprehensive than those in federal law and less comprehensive than the list in current Florida law.

Such individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.

The bill requires that any person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016. The bill also provides that the provisions of this bill related to exemptions from disqualification from employment will supersede the provisions of CS/HB 7053 if that bill were to pass this session and become law.

CS/HB 7053 contains all of the provisions necessary for Florida to be in compliance with the federal reauthorization of the Child Care and Development Block Grant. The changes to s. 435.07, F.S., only apply to child care personnel working for providers who receive block grant funds whereas the provisions in CS/CS/CS/HB 1125 apply to all child care personnel. Further, CS/CS/CS/HB 1125 requires all child care personnel currently employed as the result of receiving an exemption be rescreened by August 1, 2016.

If approved by the Governor, these provisions take effect July 1, 2016

Vote: Senate 38-0; House 116-0

Committee on Children, Families, and Elder Affairs

SB 7048 — OGSR/Client Records and Donor Information Collected by Regional Autism Centers

by Children, Families, and Elder Affairs Committee

The bill continues the public records exemption for Florida's seven regional autism centers by removing the October 2, 2016 repeal date. The exemption provides that all records relating to a client of an autism center and the client's family are confidential and exempt from public record requirements. The exemption also provides that the personal identifying information of donors or prospective donors who wish to be anonymous is confidential and exempt.

Since the bill does not expand or create an exemption to public records law, the bill requires a majority vote of each chamber for passage.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 37-0; House 117-0