STORAGE NAME: h1991y.cfe
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HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILDREN AND FAMILY EMPOWERMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 1991 (PCB CFE 97-01)

RELATING TO: Children's Mental Health

SPONSOR(S): Committee on Children and Family Empowerment and Representative Lacasa

STATUTE(S) AFFECTED: Chapter 394-Part III

COMPANION BILL(S): CS/SB 236 [Compare]

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) CHILDREN AND FAMILY EMPOWERMENT YEAS 7 NAYS 0
(2) HEALTH AND HUMAN SERVICES APPROPRIATIONS [WITHDRAWN]
(3)
(4)
(5)

I. SUMMARY:

The bill eliminates a very limited and obsolete statutory framework in Chapter 394, Part III, F.S., established in 1978 that provided the structure for limited children's mental health services.

The bill rewrites Part III of Chapter 394 to create a children's mental health system of care. The system as delineated in the bill could increase the probability that children and families will be in programs that minimize duplication and fragmentation of services and facilitate a more competitive and efficient service market to address the emotional growth and development of children with emotional disturbance.

The children's mental health system of care proposed in the bill consists of the following elements:

- Guiding principles
- Target priority groups eligible for services
- General performance outcomes
- Information and referral process
- Screening, assessment, and uniform standards
- Assessment services
- Services planning teams
- Services plan and case management
- The services that should be available in the children's mental health system of care
- Market rate reimbursement, provider qualification and purchase of services system
- Children's Mental Health Partnership Grants
- Departmental contracting powers

The bill will require a reinvestment of existing dollars to fund the key elements of the new system as delineated in the bill.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The statutory framework for children's mental health as delineated in Chapter 394-Part III is limited and has essentially remained unchanged since 1978. During this period, the Department of Children and Families has adopted rules and policy that guides services delivered at the local level.

Children's mental health services in Florida are administered by the Alcohol, Drug Abuse and Mental Health (ADM) Program Office and 15 district ADM offices within the Florida Department of Children and Families. The FY 96/97 budget for Children's mental health services is approximately $74.5 million. In addition to state dollars, Medicaid currently funds about two thirds [$127 million] of the mental health services for children. Medicaid is a federal health insurance entitlement program which provides payment for certain mental health services to approved providers for enrolled eligible children. The Agency for Health Care Administration administers the Medicaid program.

Children's mental health services are delivered by both private for profit and private nonprofit services providers either under contract or under rate agreements at the district level. Districts also contract with other governmental entities such as school districts. Some additional services are delivered by providers who operate on a fee-for-services basis. Local governments provide matching funds for a portion of the budget. The ADM district program offices are responsible for negotiating contracts and purchase-of-service agreements with mental health centers and private mental health professionals such as psychiatrists, psychologists and clinical social workers. In general, the community mental health centers are the primary service providers. Services that are provided also include an array of contracted nonresidential services as well as services purchased on an individual basis from service providers.

Although each district provides a broad array of services, the availability of services and who gets services varies across districts. Currently, the system serves a broad population of children with mental health problems. The lack of specific parameters to define who needs and who gets services as well as limited funding has created a system where the demand for services is much greater than the supply of services to meet the need. Based on needs assessment information, the department estimates that 35 percent of the children with mental health problems [56,979 out of 159,916] are receiving needed services.

B. EFFECT OF PROPOSED CHANGES:

The bill eliminates a very limited and obsolete statutory framework established in 1978 that provided the structure for limited children's mental health services.

The bill creates a children's mental health system of care. The system as delineated in the bill could increase the probability that children and families will be in programs that minimize duplication and fragmentation of services and facilitate a more competitive and efficient service market to address the emotional growth and development of children.

The Children's Mental Health system of care proposed in the bill consists of the following elements:

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C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. *Does the bill create, increase or reduce, either directly or indirectly:*

I. *Any authority to make rules or adjudicate disputes?*

No. The Department of Children and Families already has rule making authority in this area.

ii. *Any new responsibilities, obligations or work for other governmental or private organizations or individuals?*

Yes. The bill creates the following responsibilities that currently do not exist in all areas of the state.

Information and referral
Assessment services
Service planning teams
Independent case managers
Market rate reimbursement
Purchase of service system [in lieu of contract for services]

iii. *Any entitlement to a government service or benefit?*

No

b. *If an agency or program is eliminated or reduced:*

I. *What responsibilities, costs and powers are passed on to another program, agency, level or government, or private entity?*

N/A

ii. *What is the cost of such responsibility at the new level/agency?*

N/A

iii. *How is the new agency accountable to the people governed?*

N/A

2. Lower Taxes:

a. *Does the bill increase anyone's taxes?*

No

b. *Does the bill require or authorize an increase in any fees?*

No

c. *Does the bill reduce total taxes, both rates and revenues?*

No

d. *Does the bill reduce total fees, both rates and revenues?*

No

e. *Does the bill authorize any fee or tax increase by any local government?*

No

3. Personal Responsibility:

a. *Does the bill reduce or eliminate an entitlement to government services or subsidy?*

No

b. *Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?*

Individuals may pay a sliding fee for services depending on income [note: this element already exists in law].

4. Individual Freedom:

a. *Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?*

No

b. *Does the bill prohibit, or create new government interference with, any presently lawful activity?*

No

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      I. *Who evaluates the family's needs?*

      A child would have to meet the assessment criteria in statute to be eligible for services. This determination is made by individuals approved by the department to screen and make clinical assessment.

      ii. *Who makes the decisions?*

      The screening and assessment process, and the service planning team with participation by the child's parent would determine what services were needed.

      iii. *Are private alternatives permitted?*

      Yes. The delivery system is operated by private providers.

      iv. *Are families required to participate in a program?*

      No

      v. *Are families penalized for not participating in a program?*

      No

   b. *Does the bill directly affect the legal rights and obligations between family members?*

      No

   c. *If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:*

      I. *Parents and guardians?*

      Unless ordered by a court, the parent remains in control of the decision to engage the child in services.

      ii. *Services providers?*

      iii. *Government employees/agencies?*

The department controls the service delivery system through the approval of providers and several mechanisms [purchase of service, rate agreements, contracts] to secure needed services.

D. SECTION-BY-SECTION RESEARCH:

Section 1. Designates s. 394.490 through 394.499 as part III of Chapter 394, F.S., "Children's Mental Health."

Section 2. Creates s. 394.490, F.S.

This section delineates the guiding principles for the children's mental health system. These principles include:

- Child centered
- Community based
- Individualized services
- Target risk factors
- Least restrictive services
- Families full participants in planning and delivery of services
- Integrated and linked services
- Early intervention
- Effective services so that the need for further services and government assistance can end as quickly as possible

Section 3. Creates s. 394.4905, F.S.

This section defines terms used in Part III.

Section 4. Creates s. 394.491, F.S.

This section delineates the target population in five priority groups that will be eligible, to the extent the resources are available, for state-funded services. The priority order is as follows:

The children's mental health system of care shall serve in priority order the following target populations:

1. Children under 18 years of age with a serious emotional disturbance, emotional disturbance or mental illness who are living at home under court ordered supervision.
2. Children under 18 years of age with a serious emotional disturbance, emotional disturbance or mental illness in state custody.
3. Children 12 years of age and under with a serious emotional disturbance, emotional disturbance or mental illness living at home and not under court ordered supervision or in state custody.
4. Children under 18 years of age and over 12 years of age with a serious emotional disturbance, emotional disturbance or mental illness living at home and not under

court ordered supervision or in state. The child's family income must be equal or below 150 percent of the current federal poverty guidelines.

5. Children 12 years of age and under at risk of emotional disturbance who are living at home and going to school and are not in state custody.

Subsection (6) clarifies that nothing in this section or Part III shall be construed to preclude the delivery of mental health screening, diagnosis and treatment services to Medicaid eligible children as required under federal law and regulations. However, to the extent allowable by federal regulations, children's mental health services funded with Medicaid funds are also subject to the provisions of Part III.

Section 5. Creates s. 394.4915, F.S.

This section describes the general performance outcomes for the children's mental health system.

It delineates three broad performance expectations for the system that on annual basis will be further specified in performance outcomes and performance measures. The broad performance expectations include:

1. Stabilization or improvement of the child's behavior or condition in the family so that the child may function in the family with minimum support, minimum government intrusion or no government intrusion.
2. Stabilization or improvement of the child's behavior or condition related to school so that the child may function in the school with minimum support, minimum government intrusion or no government intrusion.
3. Stabilization or improvement of the child's behavior or condition related to the way the child interacts in the community so that a child may avoid violence, substance abuse, unintended pregnancy, delinquency, sexually transmitted disease or other negative consequences.

Section 6. Creates s. 394.492, F.S.

This section creates a children's mental health information and referral.

It requires the Department of Children and Families to establish in each district a children's mental health information and referral network.

The department and the Agency for Health Care Administration are required to establish a protocol for the information and referral process. The protocol must include procedures to refer a child to screening, assessment, a provider, or emergency services depending on the circumstances, eligibility for services, the child's need, and other factors presented. The information and referral provider is selected based on a request for proposal and allowed to operate for three years at which time the department must issue another request for proposal.

It requires that the information and referral provider not be affiliated with any service provider.

The Information and referral agency must provide the following services:

- Identification of existing children's mental health services and the development of a resource file of those services.
- A resource file that contains certain information on each provider of service.
- Maintain ongoing documentation of requests for service compiled through the internal referral process.

This section also requires the provider of information and referral to advertise the central telephone number that parents may call for information concerning children's mental health services. In addition, the information and referral service must engage in a community public service campaign to inform the public about the service.

It requires that the information and referral process be provided with full recognition of the confidentiality rights of parents.

The Information and referral provider has to provide the department and Agency for Health Care Administration with periodic management reports that allow analysis of sources and frequency of request for information, types and frequency of services requested, types and frequency of referrals made, and other information.

Section 6. Creates s. 394.4925, F.S.

This section requires the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, the Department of Education and the Department of Juvenile Justice, to establish uniform standards and protocols for the screening, assessment and diagnosis of children with serious emotional disturbance and emotional disturbance who receive mental health services.

The protocol must include procedures and criteria to determine:

- which children are appropriate for screening, for further assessments, for other diagnostic procedures.
- which children need a services planning team, case management, a provider, or emergency services depending on the information gathered through the screening and assessment process.
- which children do not meet the criteria for referral to a services planning team or case management that may be referred directly for needed services.

In addition, the protocol must include a mechanism to provide the department and the Agency for Health Care Administration with periodic management reports

Duplicative and inefficient screening, assessment, diagnostic and planning practices must be eliminated to the extent possible.

It also requires that diagnostic and other information necessary to provide quality services to children must be shared among agencies.

Section 8. Creates s. 394.493, F.S.

This section requires the department to establish assessment services in each district.

Assessment services provides initial screening of children, including intake and needs assessment, mental health screening, substance abuse screening, physical health screening, and diagnostic testing to determine eligibility, as needed.

It allows a district to contract for these services and establish multiple assessment services functions in a district.

Section 9. Creates s. 394.4935, F.S.

This section requires the department to establish in each district children's mental health services planning teams. The department must assign a coordinator to each services planning team from a list of approved and qualified coordinators.

The purpose of a services planning team is to assist the family and other caregivers to develop and implement a workable case plan for treating the child's mental health problems by developing a services plan when one is needed and designating an independent case manager when one is needed.

The criteria to determine whether a child needs a services planning team, a services plan, and an independent case manager are established in protocol. If a case manager is assigned to the child, it requires that the case manager be independent and not affiliated with a service provider.

This section specifies that the services planning team have representatives that at a minimum, include the child when the child is over 11 years of age and capable of participation, the child's parent or guardian, the Department of Children and Families or its designee, school representatives, mental health professionals and other individuals or entities from the child's community.

Section 10. Creates s. 394.494, F.S.

This section defines a services plan and establishes a case management process for children and families receiving services.

It requires the department to determine when a child must have a services plan. The elements of a services plan are described. The major elements include:

- A behavioral description of the problem being addressed.
- A description of the services to be provided to the child and family to address the identified problem
- A description of the measurable objectives of treatment that result in measurable improvements of the child's condition pursuant to s. 394.4915, F.S.

It requires that the services plan be developed in conference with the parent or guardian and allows a parent who believes that the plan is not adequate to request a review of the plan by the department. The independent case manager must purchase or arrange for needed services through a purchase of services system from approved providers. The

services plan is reviewed at least every 90 days for programmatic and financial compliance.

The independent case manager is required to periodically review service utilization for a sample of cases to ascertain compliance with plans approved by the planning team. The agency and the department are authorized to recoup expenditures for unauthorized services and may fine a provider agency for substantial non compliance provider pursuant to existing authority in s. 394.879.

This section establishes legislative intent to limit the number of case managers assigned to a child to no more than one mental health case manager.

Section 11 Creates s. 394.4945 F.S.

This section describes the general programs and services that, within available resources, should be available in the children's mental health system of care.

The following program and services are described:

Prevention services
Home-based services
School-based services
Respite and family support
Outpatient treatment
Day treatment
Crisis stabilization
Therapeutic homes
Residential treatment
Inpatient hospitalization
Child sex offender victim service
Transitional services

Section 12. Creates s. 394.495, F.S.

This section establishes three important elements of a newly designed children's mental health system. These elements include:

- A provider qualification process
- A market rate reimbursement system
- A purchase of services system

The children's mental health care provider qualification is a process to approve children's mental health providers that meet relevant licensing requirements, qualifications, standards, and training requirements for specific services and programs. It requires that the department shall only purchase services from approved providers or qualified Medicaid providers.

The market rate reimbursement system is a process to reimburse providers for services at cost that reflects the 75th percentile [prevailing market rate] of a reasonable

frequency distribution of the cost for a service in a predetermined geographic area at which mental health providers, including community mental health centers and professionals licensed pursuant to chapters 458, 459, 490 or 491, charge for a service or treatment. It requires the department to negotiate with providers for the most competitive rates available and never to reimbursement a provider more than the prevailing market rate for services in a predetermined geographic market.

A purchase of services system is a process where the case manager purchases needed services from among providers who have been identified by the department. This method departs from a system currently used that relies heavily on contracts for a predefined service.

It requires the department to develop specific reimbursement, accounting and monitoring system to ensure the validity of charges for services from providers.

Section 13. Creates s. 394.496, F.S.

This section establishes the Children's Mental Health Partnership Grants.

The purpose of the Children's Mental Health Partnership Grants is to utilize state funds as incentives for matching local funds derived from local governments, charitable foundations, and other sources, so that Florida communities may create local flexible partnerships to serve children 12 years of age and under at risk of emotional disturbance.

The grants' funds provide a dollar-for-dollar match from funds derived from local governments, charitable foundations, and other matching contributors.

The section outlines a grant application process and requires the department to consider the following in awarding the grants:

:

- The number of children in the target population within the geographical area to be served by the program.
- The validity and cost-effectiveness of the program.
- The validity of the performance outcomes and measures to capture the impact of the program on the target population.

The new provision allows the department to reallocate up to 10 percent of the funds appropriated for children's mental health to fund Children's Mental Health Partnership Grants, if no funds are specifically appropriated for the grants.

Section 14. Creates s. 394.497, F.S.

This section authorized the department to contract with receiving facilities and crisis stabilization units to provide emergency stabilization for persons in crisis situations.

This section also authorizes that the department use other methods other than the purchase of services by a case manager to secure needed services. It allows the department to essentially waive the "purchase of services" approach and contract for

services or preauthorize the purchase of services when they determine that it is necessary. Under this provision, the department can contract or preauthorize the purchase of a services or other functions to address any limitations imposed by:

- The supply of the service or function.
- The availability of the service or function.
- The capacity or capability of a district to implement the provisions of Part III.
- Other conditions imposed by the service market.

Subsection (3) provides legislative intent stating that the purchase of service system as delineated in s. 394.495, F.S., should be the primary method to acquire needed services for the target population and that other methods [contracts] available to the department to secure services be judiciously applied by the department.

To enforce this intent, the department must provide a report to the Legislature as part of the requirement to report performance outcome and performance measures pursuant to s. 216.0166, F.S., indicating statewide and for each district utilization statistics, service type and monetary value of purchase of service, contracts, performance contract, and preauthorize purchase of services to secure mental health services for children.

Section 15. Creates s. 394.499, F.S.

This section allows the department to adopt a specific rule for a process to resolve conflict or disagreement that arises regarding the treatment of a child among a provider, case manager, services planning team, and other relevant parties.

Section 16. Amends subsection (8), creates subsection (9), and renumbers existing subsection of s. 411.203, F.S.

This existing section provides a general framework for the continuum of prevention and early assistance services for high-risk pregnant women and for high-risk and handicapped children and their families.

The continuum is a guide for the comprehensive statewide approach for services for high-risk pregnant women and for high-risk and handicapped children and their families. Under this continuum, there are support services for all expectant parents and parents of high-risk children.

Parent education and counseling services are amended by the bill too so that parent education includes methods to stimulate brain development in infants and toddlers.

A new component to the continuum of services is created to provide parents and other caregivers family behavioral and skill training to better handle crises and stresses, promote a child's sense of identity and decrease inappropriate or unfavorable childhood behaviors.

Section 17. Amends paragraph (c) of subsection (5) of section 411.204, F.S.

This section corrects a cross reference to conform to the changes s. 411.203.

Section 18. Repeals ss. 394.50, 394.56, 394.57, 394.58, 394.59, 394.60, 394.61, and 394.62, F.S. These sections have remained unchanged since 1978 and are considered obsolete.

Section 19. Requires the Department of Children and Families to implement the provisions of Part III as contained in this act in each district by July 1, 1998.

Section 20. Provides an effective date of July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments

2. Recurring Effects:

FY 97/98				
Function	Capacity	Medicaid	General Revenue	Total Cost
Information and Referral		$0	$ 600,000	$ 600,000
Assessment and Screening	8,556	$ 2,490,989	$ 1,537,373	$ 4,028,362
Case management and Services planing teams	17,130	$ 21,419,439	$ 1,907,938	$23,327,377
Community Services	78,132	$ 64,000,642	$11,816,905	$75,817,547
Residential services	1,033	$ 7,000,000	$35,216,525	$42,216,525
Acute Care	5,235	$ 5,268,148	$ 7,107,049	$12,375,197
Total		$100,179,218	$56,048,417	$156,227,635

3. Long Run Effects Other Than Normal Growth:

   None

4. Total Revenues and Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None

2. Recurring Effects:

   The bill allows local government to compete for Children's Mental Health Partnership Grants. If local government participates, the grant requires a dollar-for-dollar match.

3. Long Run Effects Other Than Normal Growth:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None

2. Direct Private Sector Benefits:

   None

3. Effects on Competition, Private Enterprise and Employment Markets:

   The use of an independent case management and purchase of service system should in the long run allow for a more competitive children's mental health services market that will create more choices for services and will stimulate the growth of the provider market.

D. FISCAL COMMENTS:

   This bill will be implemented within the dollars currently appropriated for children with mental health problems and requires a reinvestment of existing dollars to fund the key elements of the system.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

This bill was introduced in the 1997 Session and did not pass the Legislature. Pursuant to House Rule 96, the bill was carried over to the 1998 Session.

A technical amendment is required to change the effective date of the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON CHILDREN AND FAMILY EMPOWERMENT

:

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Bob Barrios Bob Barrios