

STORAGE NAME: h4357.hcs

DATE: April 3, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4357

RELATING TO: Children's Mental Health Services and Substance Abuse Services

SPONSOR(S): Rep. Casey

COMPANION BILL(S): SB 2334 (similar)

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

- (1) HEALTH CARE SERVICES
 - (2) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

House Bill 4357 transfers through type 2 transfer, all power, duties, and appropriations for children's mental health and substance abuse services to the Department of Health, from the Department of Children and Family Services. It places the responsibilities for administration of the children's mental health and substance abuse services within the Division of Children's Medical Services in the Department of Health. Through this transfer, functions related to adjudicating children as incompetent and functions related to mentally incompetent delinquents, are also the responsibilities of the Department of Health.

A committee is formed comprised of representatives from the Department of Children and Family Services and the Department of Health, to recommend the most efficient methods of carrying out the proposed transfer of functions. The committee is also charged with recommending how to best fulfill the shared responsibilities; and any revisions to the statutes necessary to ensure the successful administration of each department's responsibilities. The Governor is to appoint a chairperson of the committee. The committee is to hold its first meeting by July 15, 1998, and report its recommendations to the departments by November 2, 1998.

There is a fiscal impact to this bill. It involves the costs of transferring programs from the Department of Children and Family Services to the Department of Health. The Department of Health, however, does not know what the exact costs of the program implementation will be.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Department of Children and Family Services currently administers the children's mental health and substance abuse programs as a part of the overall Mental Health and Substance Abuse Program. The mission of this program extends beyond a personal or public health mission to encompass child welfare and child protection functions related to children who are determined to be incompetent and are potentially harmful to other individuals. There is a link between the children's mental health program and the Developmental Services Program, concerning children who are determined to be developmentally disabled and mentally ill. There is a link between the children's mental health program and the Department of Education, concerning the education of children with mental illnesses. Furthermore, there is a link between the children's mental health program and the Department of Juvenile Justice, concerning delinquent children with mental illnesses.

Notwithstanding current functions, the children's mental health program has been involved in substantial planning efforts with the Agency for Health Care Administration concerning the medical treatment of children, with mental health problems, in managed care arrangements. This planning involves one component of the program, but not all of the components, such as the interfaces between the Department of Juvenile Justice and the Department of Education. It only focuses on the medical and health care components.

The Department of Health was created to protect and promote the health and safety of Floridians. The primary purpose of the Division of Children's Medical Services (CMS) is to provide a family centered managed system of health care for children with special health care needs. Currently, the definition of children with special health care needs excludes children who only have behavioral or mental health problems. This definition is codified in s. 409.9126, F.S., which establishes Children's Medical Services as an alternative service network for Medicaid child beneficiaries. CMS has provided care through contractual arrangements with the private sector. It is also in the process of focusing its mission on the delivery of health and medical services to eligible individuals through managed care arrangements.

B. EFFECT OF PROPOSED CHANGES:

Responsibilities for children's mental health and children's substance abuse programs will be placed under the CMS program within the Department of Health. This would grant the Department of Health the authority to organize, classify, and manage the transferred resources necessary.

A transitional advisory committee consisting of three staff members each from the Department of Children and Family Services and the Department of Health will supervise this transition. This committee will recommend to the respective departments the most effective means of carrying out the transfer, how best to share responsibilities, and any revisions to the statutes necessary to ensure the successful administration of each department's responsibilities.

The mission of Children's Medical Services will change and expand significantly.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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

(1) any authority to make rules or adjudicate disputes?

No new authority.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Responsibilities are transferred from the Department of Children and Family Services to the Department of Health.

(3) any entitlement to a government service or benefit?

No.

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

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

All responsibilities and appropriations and powers are transferred from the Department of Children and Family Services to the Department of Health for the administration of the Children's Mental Health and Substance Abuse Programs.

(2) what is the cost of such responsibility at the new level/agency?

These costs are unknown at present.

(3) how is the new agency accountable to the people governed?

The Department of Health will have increased and significant accountability to the adjudication of individuals determined to be mentally incompetent and to the administration of institutions for such individuals.

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?

No.

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:

(1) Who evaluates the family's needs?

Multi disciplinary teams.

(2) Who makes the decisions?

The Department of Health for certain children's mental health functions; the Department of Children and Family Services for functions related to individuals who are developmentally disabled and have mental health problems; the Department of Juvenile Justice for individuals who are delinquents.

(3) Are private alternatives permitted?

Not specified.

(4) Are families required to participate in a program?

Not specified.

(5) Are families penalized for not participating in a program?

Not specified.

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

In as much as individuals who are adjudicated incompetent or are delinquent, the bill does affect the legal rights of certain family members.

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:

(1) parents and guardians?

No.

(2) service providers?

No.

(3) government employees/agencies?

No.

D. STATUTE(S) AFFECTED:

This bill amends ss. 230.2317(2), 394.455(8), 394.67(3), 397.311(9), 561.121(1)(b) and (4)(a), 984.225(7), 985.06(2), 985.21(1)(a), and 985.223, F.S., and creates s. 394.91, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Transfers from the Department of Children and Family Services to the Department of Health's Division of Children's Medical Services those powers, duties, and resources relating to children's mental health and children's substance abuse programs via a type two transfer as specified in s. 20.06, F.S., and grants to the Department of Health the authority to organize, classify, and manage the transferred resources as necessary.

Section 2. Amends s. 230.2317(2), F.S., relating to educational multi-agency services for students with severe emotional disturbance, to add the Secretary of the Department of Health as an appointing authority for membership on an advisory board.

Section 3. Amends s. 394.455(8), F.S., relating to definitions used in the Florida Mental Health Act, to redefine "department" to mean the Department of Children and Family Services when referring to services for adults and the Department of Health when referring to services for children and adolescents.

Section 4. Amends s. 394.50, F.S., relating to children's residential and day treatment centers to replace reference to the Department of Health and Rehabilitative Services with reference to the Department of Health.

Section 5. Amends s. 394.60, F.S., relating to the transfer of a child to an appropriate treatment facility, to replace reference to the Department of Health and Rehabilitative Services with reference to the Department of Health and the Department of Children and Family Services.

Section 6. Amends s. 394.67(3), F.S., relating to definitions used in the Community Alcohol, Drug Abuse, and Mental Health Services Act, to redefine "department" to mean the Department of Children and Family Services when referring to services for adults and the Department of Health when referring to services for minors.

Section 7. Amends s. 561.121(4)(a), F.S. relating to the deposit of certain alcoholic beverage surcharge revenue into the Children and Adolescents Substance Abuse Trust Fund, to replace reference to the Department of Health and Rehabilitative Services with reference to the Department of Health.

Section 8. Effective July 1, 1999, amends s. 561.121(1)(b), F.S., relating to the deposit of certain beer, wine, and liquor revenue into the Children and Adolescents Substance Abuse Trust Fund, to replace reference to the Department of Health and Rehabilitative Services with reference to the Department of Health.

Section 9. Amends s. 984.225(7), F.S., relating to placement of children in staff-secure shelters, to clarify departmental responsibilities with regard to the placement needs of the child.

Section 10. Amends s. 985.06(2), F.S., relating to an inter-agency workgroup on information sharing relating to juveniles, to add Department of Health to the workgroup.

Section 11. Amends s. 985.21(1)(a), F.S., relating to delinquency intake and case management, to authorize Department of Health employees or agents to cooperate in case management.

Section 12. Amends s. 985.223, F.S., relating to incompetency in juvenile delinquency cases, to specify that the Department of Health, rather than the Department of Children and Family Services, must annually provide the courts with a list of mental health professionals who have received specific training.

Section 13. Creates a transition advisory committee consisting of three staff members each from the Department of Children and Family Services and the Department of Health, appointed by the respective secretaries effective July 1, 1998. The purpose of the committee is to recommend to the respective departments: the most effective means of carrying out the transfer; how to best fulfill the shared responsibilities; and any revisions to the statutes necessary to ensure the successful administration of each department's responsibilities. The Governor is to appoint a chairman of the committee. The committee is to hold its first meeting by July 15, 1998, and report its recommendations to the respective departments by November 2, 1998.

Section 14. Except as otherwise provided, provides an effective date of January 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

There could be transition expenses from moving program services from the Department of Children and Family Services to the Department of Health.

2. Recurring Effects:

There could be an increase in annual appropriations to the Department of Health to enable them to provide the services required under the transfer of programs to their department.

3. Long Run Effects Other Than Normal Growth:

None foreseeable.

4. Total Revenues and Expenditures:

Unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

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:

None.

D. FISCAL COMMENTS:

The Department of Children and Family Services has not provided the Department of Health with a fiscal impact analysis. Due to this reason the Department of Health can not adequately assess the administrative and programmatic impacts of this bill.

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 expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues.

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:

The Department of Children and Family Services is strongly opposed to the bill. The department finds that the transfer of programs, budgets, funds, staff, and equipment processed in this bill will require significant programming changes to the automated systems of both the Department of Children and Families and the Department of Health and will impede their ability to complete the programming changes necessary for the year 2000. The Department of Children and Family Services further finds that the State, Federal, and district partnerships developed over the years to collaboratively support children with serious emotional disturbance and children with substance dependence and their families would have to be re-constructed and new agreements negotiated. Transfer of these programs could risk losing momentum in crucial current and ongoing initiatives. The department offers that transfer of these program's funds to the Department of Health would further challenge the state's ability to ensure federal block grant compliance for both mental health and substance abuse, increasing the potential for audit exceptions and consequent federal funding paybacks. The Department of Children and Family Services concludes that there is not a clear and compelling need for the transfers that justifies the risk of reduced program quality, integrity, and effectiveness.

The Department of Health has shown via its analysis limited support for the bill, as it is currently written. The department has concerns regarding how the bill significantly changes the mission of Children's Medical Services. The Department of Health further finds that the bill also fragments functions related to the overall care of a child with mental health problems between agencies, without clear direction. These agencies are the Department of Children and Family Services, the Department of Health, the Department of Education, and the Department of Juvenile Justice. The Department of Health states that because children may also be developmentally disabled and delinquent, the oversight of this program may become problematic.

The Department of Health recognizes that to implement the bill as currently written would require significant changes in administrative functions, such as changing from a non-centralized to a centralized system of facility oversight, revenue management, and contract management. The transfer of functions does not recognize the administration of those functions that are currently carried out through 15 Department of Children and Family Services Districts. Additionally, the bill requires that the Department of Health certify that individuals have been trained to provide services to children with mental health problems.

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This function, according to Department of Health analysis, would require additional staff and resources to assure certification and training functions are carried out appropriately.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

There is an expected strike everything amendment to be offered at the April 8, 1998 Health Care Services committee meeting. This amendment will make the bill identical to its similar Senate counterpart (SB 2334), and the following changes will be made:

Sections four and five from HB 4357 would be removed under the strike everything amendment. These sections replaced references to the Department of Health and Rehabilitative Services with Department of Children and Family Services and Department of Health, respectively. These sections are removed from the bill as they were already repealed under a separate act.

Section six from HB 4357 would be moved to section four in the strike everything amendment, but would still amend s. 394.67(3), F.S.

Under the strike everything amendment, section five would create s. 394.91, F.S. This would provide responsibilities for the Department of Health regarding alcohol, drug abuse, and mental health contracts, planning, and outcomes.

Under the strike everything amendment, section six would amend s. 397.311(9), F.S., relating to definitions used for purposes of alcohol and drug abuse services, to redefine "department" to mean the Department of Children and Family Services when referring to services for adults and the Department of Health when referring to services for minors or juveniles.

Finally, Section 14 is amended to provide the effective date of January 1, 1999.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Legislative Research Director:

Benjamin H. Pingree

Michael P. Hansen