

STORAGE NAME: h0705.EALTC

DATE: March 21, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Elder Affairs & Long Term Care
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 705

RELATING TO: Adult Family-Care Homes

SPONSOR(S): Representative Roberts-Burke

STATUTE(S) AFFECTED: 400.621, 400.6211, 400.626, F.S.

COMPANION BILL(S): SB 738

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

- (1) Elder Affairs & Long Term Care
- (2) Health and Human Services Appropriations
- (3)
- (4)
- (5)

I. SUMMARY:

HB 705 revises chapter 400 Part IV which concerns Adult Family-Care Homes. The bill does four things:

1. Moves responsibility and authority from the Department of Children and Family Services (formerly Health and Rehabilitative Services, HRS) to the Department of Health (Health) to work with the Department of Elder Affairs (DOEA) and the Agency for Health Care Administration (AHCA) to establish rules. Those rules govern minimum standards and licensure procedures.
2. Directs that the rules be revised to provide respite care for providers and caregivers in Adult Family-Care Homes (AFCH). Respite care allows caregivers to have time away from their charges and with the expectation that the residents are being supervised.
3. Directs DOEA to provide AFCH operators with an explanation of the financial assistance and other benefits, including food stamps, which may be available to indigent persons who live in an AFCH.
4. The bill creates s. 400.626, F.S., to provide authority for AHCA, working with DOEA and the Department of Children and Family Services, to waive administrative rules governing appropriate placement, so that elderly persons may continue to live in the AFCH and "age in place", even as they become more frail.

The fiscal impact of this bill can not be determined at this time.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Adult Family-Care Homes (AFCH) provide a full-time family-like living arrangement in a private home. The AFCH operator provides room, board, and personal care services for no more than five disabled adults or elders. The person applying for a license to operate an AFCH must own or rent and live in the home to be licensed. There are 400 licensed AFCHs now.

Respite is substitute care that allows the regular caregiver to have a break from the caregiving responsibilities. Respite can be provided in the home or by temporarily moving the patient or resident to a nursing home, hospital, or inpatient hospice. The statute does not currently address the need for or the provision of respite care in an AFCH. However, the administrative rule (Chapter 58A-14) requires that the AFCH provider designate a "relief person" who can provide respite and supervise the residents in the caregiver's absence.

AFCH operators are paid a monthly fee by each resident. For an indigent person receiving Supplemental Security Income (SSI) and the Optional State Supplementation, the facility typically charges the resident \$612 per month.

B. EFFECT OF PROPOSED CHANGES:

HB 705 will transfer rule making consultative responsibility and authority to the Department of Health from the Department of Children and Family Services.

DOEA will be required to provide information to AFCH operators about financial assistance and other benefits which would be available to a recipient of Supplemental Security Income (SSI).

AFCH operators will be able to ask AHCA to waive the rules, adopted under this section, so that a resident could continue to live in the AFCH as their condition deteriorated. This waiver of the rules would allow a resident, who would otherwise be physically or medically ineligible, to "age in place."

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?

The bill provides AHCA with the authority to waive rules adopted under chapter 400, F.S., to allow residents in AFCHs to continue to live there if there is reasonable assurance of their health, safety, and welfare.

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

DOEA, working with AHCA and Health will have to amend the existing administrative rule governing AFCHs. DOEA will have to develop new training materials for operators of such homes. The three agencies will have to prepare a rule, policies, procedures, and staff training materials to implement the proposed waiver provisions.

- (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?

N/A.

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

N/A.

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

N/A.

2. Lower Taxes:

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

Taxes are not addressed.

- 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?

N/A.

4. Individual Freedom:

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

Yes, the bill allows citizens who choose to live in an AFCH to continue to live there as they age and become more frail. AHCA would be able to waive the current rules which would require the person to move to a more intensive level of care, probably a nursing facility, as their condition declined.

- 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?

N/A.

- (2) Who makes the decisions?

N/A.

- (3) Are private alternatives permitted?

N/A.

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

N/A.

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

N/A.

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

N/A.

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?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. SECTION-BY-SECTION:

This section need be completed only in the discretion of the Committee.

Section 1. Amends section 400.621, F.S., adding paragraph (l) directing that the rules must provide for respite care for providers and caregivers in adult family-care homes.

Section 2. Amends section 400. 6211, F.S., and directs DOEA to provide an explanation of the financial assistance available to persons who receive Supplemental Security Income (SSI) and live in AFCHs.

Section 3. Creates section 400.626, F.S. It provides for a waiver of the administrative rules so that persons living in adult family care homes can continue to live there even as their condition declines. AFCHs which receive this waiver must submit a report to AHCA, DOEA, and the Department of Children and Family Services. The goal is to allow elders to "age in place."

Section 4. Provides an effective date of October 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

DOEA and AHCA project no non-recurring effects. There will be a nominal cost associated with amending the administrative rules.

2. Recurring Effects:

No impact is projected at this time.

3. Long Run Effects Other Than Normal Growth:

No impact is projected at this time.

4. Total Revenues and Expenditures:

No impact is projected at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

No impact is projected.

2. Recurring Effects:

No impact is projected.

3. Long Run Effects Other Than Normal Growth:

No impact is projected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

No fiscal impact is projected.

2. Direct Private Sector Benefits:

AFCH operators would be able to continue to serve the persons living with them even as a resident's health declined. This allows an elder to choose where they will live and to "age in place."

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

None is projected.

D. FISCAL COMMENTS:

It is not clear whether the bill intends that by amending the rules that AHCA, DOEA, or Health would have the responsibility for purchasing respite care for AFCH operators. If that is the case, the current fiscal note of no costs projected would have to be revised.

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 and 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:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

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