

STORAGE NAME: h1831.go

DATE: April 2, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: HB 1831

RELATING TO: Statewide Drug Control

SPONSOR(S): Representative Feeney

COMPANION BILL(S): CS/CS/SB 1468 (similar)

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

- (1) GOVERNMENTAL OPERATIONS
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

In 1998, the Senate Committee on Criminal Justice conducted a study of the substance abuse problem in Florida. The committee's findings and recommendations appear in its November 1998 report number 98-13, entitled *Developing a Comprehensive Drug Control Strategy for Florida*.

In an attempt to implement some of the recommendations in the report, and to move closer to controlling substance abuse in Florida, House Bill 1831 creates three new, and as yet unnumbered sections of the Florida Statutes, repeals ss. 397.801(1), and 397.811(2), F.S., and amends s. 397.821(3), F.S.

This bill creates a state Office of Drug Control, and a Statewide Drug Policy Advisory Council within the Executive Office of the Governor, and provides the attendant duties and responsibilities of each.

This bill creates a fiscal impact on state government.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Strategic Direction on State Drug Control Efforts:

Florida has no codified state drug control strategy, so state strategic direction, as well as funding of state drug control programs and services, is largely state agency-driven. Decisions regarding the funding of state substance abuse programs and services are not guided by a state drug control strategy, but rather by the strategies of the individual agencies which they have developed to address the agency's component of the overall state drug control effort, and their funding requests.

Programs and efforts at limiting substance abuse are spread out over numerous agencies. A sample of some of those programs and efforts include:

- Duties of the Florida Department of Law Enforcement (FDLE) include investigating major drug trafficking operations. The department also analyzes drug samples, and is involved with two prevention programs: Drug Abuse Resistance Education (DARE), an intervention program designed to teach students skills to reduce peer pressure to experiment with alcohol and other drugs, and the Serious Habitual Offender Comprehensive Action Program (SHOCAP), an interagency information sharing and case management program focused on serious habitual juvenile offenders. The Department of Juvenile Justice and the Department of Education also participates in SHOCAP.
- The Highway Patrol is responsible for seizing illegal substances transported on Florida's highways and apprehending drunken and drugged motorists.
- The Marine Patrol and the Game and Freshwater Fish Commission provide assistance to local, state, and federal drug enforcement efforts in concert with other agencies and offices, such as FDLE.
- The National Guard conducts supply reduction (eradication and interdiction) operations. It also oversees demand-reduction programs (primarily prevention programs, including two programs funded by the Department of Labor).
- The Division of Alcoholic Beverages and Tobacco is responsible for licensing alcoholic beverage and tobacco industries, collecting and auditing taxes and fees paid by licensees, and enforcing laws and regulations of the alcohol and tobacco industries.
- The Department of Agriculture has issued stop-sale orders on herbal stimulants containing ephedrine, a controlled substance.
- The Office of the Attorney General is responsible for revising, by rule, the controlled substance schedules when it determines such action is necessary. Its actions are subject to subsequent legislative ratification. The Office of Statewide Prosecution provides assistance on numerous drug cases, primarily federal cases, in which its attorneys may be cross-designated as federal prosecutors. The office also provides assistance to multi-jurisdictional task forces (other agencies and offices, such as FDLE, also provide such assistance).
- The Department of Corrections provides a mechanism for screening, assessing, and directing the placement of substance-abusing offenders into substance abuse treatment programs. Most of the treatment programs are provided through contracts with local private sector treatment providers.
- The Department of Juvenile Justice provides substance abuse services for juvenile offenders, primarily through contracted local service providers, and funded mainly by the Department of Children and Family Services. The Department of Juvenile Justice also administers several state and federal grant programs that fund community based-delinquency prevention and early intervention initiatives. Substance abuse prevention is a subcomponent of some of those programs.
- The Department of Community Affairs is the administrator of the Drug Control and System Improvement Program authorized under the federal Anti-Drug Abuse Act of 1988 (SDFS). This program provides state and local units of government with grant funds to set up projects designed to address problems such as illegal drug use.

- The Department of Education is the administrator of 80 percent of the monies received under Title IV of the Safe and Drug-Free Schools and Communities Act of 1994, which funds drug and violence prevention education efforts in school districts. The Department of Community Affairs, as the Governor's designee, is responsible for administering the other 20 percent of SDFS funds awarded to the Governor or the Governor's designee.
- The Department of Children and Family Services purchases substance abuse treatment services from public and private, not-for-profit community providers, and licenses all publicly funded substance abuse prevention and treatment programs in Florida.
- The Agency for Health Care Administration develops and carries out policies relating to the Medicaid program. It contracts with a fiscal agent that processes claims and enrolls non-institutional providers. The Department of Children and Family Services determines Medicaid recipient eligibility.
- The Department of Health, in collaboration with the Department of Children and Family Services, has funded various substance abuse treatment centers around the state to implement an HIV/AIDS prevention program. Services to substance abuse affected families include medical services from the county health departments and Children's Medical Services, Healthy Start care coordination and other services, Medicaid, and Family Safety and Preservation Services. The Department of Health operates a Healthy Baby Hotline, and the Department of Children and Family Services operates an abuse hotline. Both are sources for service referrals.

The Senate Drug Control Project and the Statewide Drug Control Summit:

In 1998, the Senate Criminal Justice Committee conducted a study of the substance abuse problem in Florida. In its November, 1998 report (Report Number 98-13) *Developing a Comprehensive Drug Control Strategy for Florida*, the committee presented its findings and recommendations.

The Senate report identified the need for greater coordination of substance abuse policy and planning. The report suggested that such coordination would be enhanced by establishing and institutionalizing a new process for coordinating substance abuse policy and planning through a state drug control office within the Executive Office of the Governor, and a statewide drug policy advisory council.

The model proposed in the Senate report specified that the state create a drug control office headed by a director, and recommendations were made relative to the council. The director and the council, which the director would chair, would be charged with, among other duties, developing and implementing a comprehensive, integrated and multi-disciplinary state drug control strategy.

It was recommended that drug enforcement, prevention, and treatment pre-summit meetings be convened for the purpose of developing a framework for coordinating substance abuse policy and planning. It was intended that these pre-summits would culminate in a state drug control summit in which the actual foundation would be laid for developing a state drug control organization and strategy.

The pre-summits were convened over the fall and winter of 1998, and strategic recommendations were issued from the pre-summits.

Among the specific strategic recommendations produced from the *drug enforcement* pre-summit was the creation of a drug policy coordinator. A recommendation produced from the *substance abuse prevention* pre-summit was the creation of a drug policy coordinating office. A recommendation produced from the *substance abuse treatment* pre-summit was the creation of a statewide substance abuse coordinating office and council, with the appointment of a high-level policy coordinator in the Governor's office. A further recommendation produced from all of the pre-summits was the creation of a state drug control strategy.

Subsequent to the pre-summits, and prior to the state drug control summit, state leaders met in Miami to discuss the course for integration and implementation of strategic recommendations.

Following this conference, the chairpersons of the pre-summit steering committees and others met to develop proposed guiding principles to which the strategic recommendations from the pre-summits were linked. These principles can serve as a guide for the subsequent development of the state drug control

strategy. They can also serve as a guide to state lawmakers in terms of decision making, particularly as such decision making relates to the funding of substance abuse programs and services.

On February 12, 1999, the Senate convened a state drug control summit, which was attended by approximately six hundred people, including the the Senate President, the House Speaker, the Governor, and numerous other dignitaries. A round table of state and federal political leaders, substance abuse professionals, and citizens involved in efforts to limit substance abuse, discussed and debated the merits of the proposed guiding principles. After some revision, they ratified the following guiding principles:

- Be comprehensive and integrated in the areas of enforcement, prevention, and treatment;
- Focus on the vital and interrelated role of families, friends, faith representatives, schools, neighborhoods, communities, businesses, and the media in preventing substance abuse and providing education, support, and guidance to substance abusers;
- With the involvement of young people, maximize strong and effective prevention approaches to ensure the health and safety of all persons, including unborn children;
- Be research-based, measurable, and accountable for performance; and
- Build upon strong, sustained leadership and be long-term in nature.

Historical Efforts to Create a Drug Policy Director and Drug Policy Body:

Prior to the recent appointment of a state drug policy *coordinator*, the most recent effort in Florida to create a state drug policy director occurred during the administration of Governor Robert Martinez. In 1987, Governor Martinez' Substance Abuse Policy Advisory Council was informally created by the Office of Planning and Budget. The Council, composed of administrators from nine state agencies, was given the mission of developing an integrated plan for reducing alcohol and drug abuse in Florida, and providing the Governor with their recommendations to implement the plan.

In 1988, Governor Martinez, by executive order, created the Governor's Drug Policy Task Force after returning from Washington, D.C., where he met with federal officials including then Vice President, George Bush. That same year, Governor Martinez appointed a Drug Policy Advisor, who also served as the chairperson of the task force. Governor Martinez charged the task force with developing, recommending, and whenever possible, implementing drug control strategies. The task force and council were combined to eliminate duplication. Council members were directed to serve on active working committees and to provide staff resources.

In February of 1989, the task force issued its only report to the Governor, which included extensive recommendations. The task force ended with the Martinez Administration.

Current Law:

Section 397.801(1), F.S., provides for the creation of a Statewide Coordinator for Substance Abuse Impairment Prevention and Treatment. It lists a limited number of planning and coordinating duties for that office. Intent language in s. 397.811, F.S., which relates to juvenile substance abuse impairment coordination, and s. 397.821, F.S., which provides for the establishment of juvenile substance abuse impairment prevention and early intervention councils, makes reference to this Statewide Coordinator.

B. EFFECT OF PROPOSED CHANGES:

This bill creates the Office of Drug Control within the Executive Office of the Governor. The director of this office is appointed by the Governor, subject to Senate confirmation. It also creates a Statewide Drug Policy Advisory Council.

Section 1 - Defines terms that appear throughout the legislation.

“Substance abuse programs and services”, or “drug control”, “applies generally to the broad continuum of prevention, intervention, and treatment initiatives and efforts to limit substance abuse, and also includes initiatives and efforts by law enforcement agencies to limit substance abuse.”

“Substance abuse” is defined as “the use of any substance if such use is unlawful, and use of any substance if such use is detrimental to the user or to others but is not unlawful.”

This bill provides the Legislature’s intent to establish and institutionalize a rational process for long-range planning, information gathering, strategic decision making, and funding for the purpose of limiting substance abuse, and finds that the creation of a state drug control office and a statewide drug policy advisory council affords the best means for establishing and institutionalizing this new process.

This bill provides that the Legislature finds that any rational and cost-effective governmental effort to address substance abuse must involve a comprehensive, integrated, and multi-disciplinary approach to the problem of substance abuse.

Because the Legislature also finds state resources must be available to address an array of state needs, including the funding of drug control efforts, it is critical that:

- A state drug control strategy be developed and implemented;
- Decisions regarding the funding of substance abuse programs and services be based on the state drug control strategy;
- The drug control strategy be supported by the latest empirical research and data, require performance-based measurement and accountability, and require short-term and long-term objectives;
- The development and implementation of the drug control strategy afford a broad spectrum of the public and private sector the opportunity to comment and make recommendations; and
- Because the nature and the scope of the substance abuse problem transcends the jurisdictional boundaries of any single government agency, the drug control strategy be a comprehensive, integrated, and multi-disciplinary response to the substance abuse problem.

Section 2 - *Creates the Office of Drug Control within the Executive Office of the Governor.* It provides: that the Governor appoint the director of the Office of Drug Control, subject to confirmation by the Senate; that the purpose of the Office of Drug Control is to work in collaboration with the Office of Planning and Budgeting (OPB) to:

- Coordinate drug control efforts, and enlist the assistance of the public and private sectors in those efforts, including, but not limited to, federal, state and local agencies;
- Provide information to the public about the problem of substance abuse and the substance abuse programs and services that are available;
- Act as the Governor’s liaison with state agencies, other state governments, the federal Office of National Drug Control Policy, federal agencies, and the public and private sectors on matters that relate to substance abuse;
- Work to secure funding and other support for the state’s drug control efforts, including, but not limited to, establishing cooperative relationships among state and private agencies;
- Develop a strategic program and funding initiative that links the separate jurisdictional activities of state agencies, with respect to drug control (the state drug control office is authorized to designate lead and contributing agencies to develop such initiatives);
- Advise the Governor and the Legislature on substance abuse trends in this state, the status of current substance abuse programs and services, funding of those programs and services, and the status of the state drug control office in developing and implementing the state drug control strategy; and

- Make recommendations to the Governor on such measures as the director considers advisable for the effective implementation of the state drug control strategy.

On or before December 1 of each year, the director of the state drug control office shall report to the Governor and the Legislature the information and recommendations the office is required to make in accordance with the purposes of that office.

Section 3 - Creates a Statewide Drug Policy Advisory Council within the Executive Office of the Governor, chaired by the director of the state drug control office serving, as does the director of OPB, as a nonvoting, ex officio member of the advisory council;

Provides that staff support for the advisory council shall be provided by the state drug control office and the OPB;

Provides that the following officials shall be appointed to serve on the advisory council: the Attorney General, the executive director of the Department of Law Enforcement, the Secretary of Children and Family Services, the Secretary of Health, the Secretary of Corrections, the Secretary of Juvenile Justice, the Commissioner of Education, the executive director of the Department of Highway Safety and Motor Vehicles, and the Adjutant General. In lieu of these agency heads, their designees may serve on the council;

Provides that the Governor shall appoint 11 members of the public to serve on the advisory council. Of the 11 members, one member must have professional or occupational expertise in drug enforcement, one member must have professional or occupational expertise in substance-abuse prevention, and one member must have professional or occupational expertise in substance-abuse treatment. The remainder of the 11 members appointed should have professional or occupational expertise in, or be generally knowledgeable about issues that relate to drug enforcement and substance-abuse programs and services. The 11 appointments must, to the extent possible, equitably represent all geographic areas of the state.

The President of the Senate appoints one senator to the council, the Speaker of the House appoints one representative to the council, and the Chief Justice of the Florida Supreme Court appoints one member of the judiciary to the council. These three appointees serve a term of four years each. In order to create staggered terms, however, of the Governor's initial appointments, five members are appointed to two-year terms and six members to four-year terms.

Vacancies on the council are filled in the same manner as the original appointment, and any member appointed to fill a vacancy because of death, resignation, or ineligibility for membership, serves only for the unexpired term of the member's predecessor. A member may be reappointed.

Members of the advisory council and workgroups serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.

The advisory committee meets at least quarterly, or upon the call of the chairperson;

Provides that the advisory council shall perform the following duties:

- The council conducts a comprehensive analysis of the substance abuse problem in this state and makes recommendations to the Governor and Legislature for developing and implementing the state drug control strategy. The council shall determine the most effective means of establishing clear and meaningful lines of communication between the council and the public and private sectors, in order to ensure that the process of developing and implementing the state drug control strategy has afforded a broad spectrum of the public and private sectors with the opportunity to comment and make recommendations.
- The council reviews and makes recommendations to the Governor and Legislature on the funding of substance abuse programs and services, consistent with the state drug control strategy, as developed. The council is authorized to recommend the creation of a separate appropriations category for funding services delivered or procured by state agencies and is also authorized to recommend the use of performance-based contracting as provided in s. 414.065, F.S.

- The council reviews substance abuse programs and recommends, where needed, measures that are sufficient to determine program outcomes. The council also reviews methodologies for evaluating programs and determining whether programs within different agencies have common outcomes. The methodologies shall be consistent with those established in s. 216.0166, F.S., which relates to the submission by state agencies of performance-based budget requests, programs, and performance measures.
- The council reviews the drug control strategies and programs of, and efforts by, other states and the Federal Government and compiles the relevant research.
- The council makes recommendations to the Governor and the Legislature on applied research projects that would use research capabilities within the state, including, but not limited to, the resources of the State University System, for the purpose of achieving improved outcomes and making better-informed strategic budgetary decisions.
- The council makes recommendations to the Governor and the Legislature on changes in the law which would remove barriers to or enhance implementation of the state drug control strategy.
- The council makes recommendations to the Governor and the Legislature on the need for public information campaigns to be conducted in the state to limit substance abuse.
- The council ensures that there is a coordinated, integrated and multi-disciplinary response to the problem of substance abuse in this state, with special attention to creating partnerships within and between the public and private sectors, and to the coordinated, supportive, and integrated delivery of multiple-system services to substance abusers, including multi-agency team approaches to service delivery.
- Finally, the council assists communities and families in pooling their knowledge and experiences regarding substance abuse. Forums for exchanging ideas, experiences, practical information, as well as instruction, should be considered. For communities, such instruction may involve issues of funding, staffing, training, neighborhood and parental involvement, and instruction on other issues. For families, such instruction may involve practical strategies for addressing family substance abuse; improving cognitive, communication, and decision making skills; providing parents with techniques for resolving conflicts, communicating, and cultivating meaningful relationships with their children, and for establishing guidelines for their children; educating families about drug-free programs and activities in which they can serve as both participants and planners; and other instruction. To maximize the effectiveness of such forums, the bill provides that there should be multiple agency participation;

Provides that the chairperson of the council shall appoint work groups that include members of state agencies that are not represented on the council and solicit input and recommendations from those agencies. The chairperson is authorized to appoint work groups as necessary from among the members of the advisory council in order to efficiently address specific issues. A representative of a state agency shall be the head of the agency, or his or her designee. The chairperson may designate lead and contributing agencies within a work group.

The advisory council shall submit a report to the Governor, the President of Senate, and the Speaker of the House of Representatives by December 1 of each year which contains a summary of the work of the council and the recommendations required by the legislation, as described herein. Interim reports may be submitted at the discretion of the chairperson of the advisory council.

Section 4 - Amends s. 397.821, F.S., removing references to the Statewide Coordinator for Substance Abuse Impairment.

NOTE: The language remaining after the deletions seems awkward, and redundant.

Section 5 - Repeals ss. 397.801(1), F.S., and 397.811(2), F.S. The repeal eliminates language authorizing the creation of a Statewide Coordinator for Substance Abuse Impairment Prevention and Treatment, and the duties attached to that office. The planning and coordination duties are among the planning and coordination duties that would be performed by the director of the state drug control office.

Section 6 - Provides an effective date of upon becoming a law.

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?

This bill provides that the Office of Drug Control "coordinate drug-control efforts", and to "designate lead and contributing agencies to develop...initiatives".

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

Due to the extensive coordination efforts related to this initiative, there would be some work and responsibility added to governmental organizations, private organizations and individuals.

(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?

This bill repeals ss. 397.801(1), F.S., and 397.811(2), F.S. The repeal eliminates language authorizing the creation of a Statewide Coordinator for Substance Abuse Impairment Prevention and Treatment, and the duties attached to that office. The planning and coordination duties are among the planning and coordination duties that would be performed by the director of the state drug control office.

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

See FISCAL IMPACT section.

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

This office and commission are created within the Executive Office of the Governor.

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:

Not applicable.

(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?

No.

- (2) service providers?

Perhaps.

- (3) government employees/agencies?

Yes. The Office of Drug Control will be coordinating efforts among agencies which currently provide services.

D. STATUTE(S) AFFECTED:

Creates three unnumbered sections; Amends s. 397.821, F.S.; Repeals ss. 397.801(1) and 397.811(2), F.S.

E. SECTION-BY-SECTION ANALYSIS:

See Section II B. EFFECT OF PROPOSED CHANGES

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Executive Office of the Governor estimates a \$15,000 initial cost.

2. Recurring Effects:

The Executive Office of the Governor estimates that the Office of Drug Control will require 3 FTE, an Executive Director and 2 assistants, at an annual cost of \$234,872.

The annual expense related to the travel for the 23 member Advisory Council would be approximately \$50,000.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Approximately \$299,872 for FY 1999-2000 including a non-recurring expense of \$15,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Unknown, but the expense involved in administrative and cooperative efforts would probably be minimal.

2. Recurring Effects:

See B. 1. above.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See B. 1. above.

2. Direct Private Sector Benefits:

Unknown.

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

None.

D. FISCAL COMMENTS:

The Senate companion to this bill appropriates 3 FTE and \$270,333 from recurring General Revenue and \$14,539 from non-recurring General Revenue to the Executive Office of the Governor to implement the provisions of the act.

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 counties or municipalities 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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

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