

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 342

SPONSOR: Senator Forman

SUBJECT: Traumatic Brain Injury

DATE: March 6, 2000

REVISED: 3/07/00 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/1 Amendment</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 342 would authorize the Department of Children and Family Services to establish a program of long-term supports and services, contingent upon specific legislative appropriations, for persons who have sustained brain injuries and whose needs cannot be met through other programs related to brain injury located in the Department of Health, Department of Labor and Employment Security, or the Department of Children and Family Services. The determination of eligibility process for this program must ensure that the person is ineligible for other programs or has needs that cannot be met through other programs of the department or through other agencies for which he or she is eligible.

This bill creates section 402.06 of the Florida Statutes.

II. Present Situation:

According to the Brain Injury Association of Florida, approximately 15,000 Floridians survive a traumatic brain injury each year. The most common causes of brain injury include motor vehicle crash, abuse and violence, physical assault, gunshot wound, sport-related accidents, and falls. Brain injuries can result in serious cognitive, physical, and/or psychosocial impairments in: balance and movement; solving problems; organizing thoughts; memory (short and long term); communicating or relating to other persons; controlling emotions; and experiencing the sense of smell, hearing, taste, touch, and sight. The association estimates that 64 percent of infant brain injuries are caused by child abuse.

Most children with traumatic brain injury are served by Children's Medical Services (CMS) within the Department of Health. Children under age 18 years who sustain a moderate to severe traumatic brain injury are referred to one of the 10 Children's Medical Services' nurses throughout the state who provide pediatric services for the Brain and Spinal Cord Injury Program (BSCIP). These CMS nurses provide case management services to the child and family for several months after the child's injury. Children who have long-term needs are referred to the regular

Children's Medical Services program. Most children with traumatic brain injury who have long-term needs are served by CMS because they usually meet Medicaid eligibility criteria.

Pursuant to ch. 99-240, L.O.F., BSCIP was transferred from the Department of Labor and Employment Security, Division of Vocational Rehabilitation to the Department of Health on January 1, 2000. The BSCIP and the Department of Children and Family Services report that no single state agency is responsible for serving persons 18 years of age and older with traumatic brain injuries who need long-term supports and services. Most of the funds to serve this population are appropriated to the BSCIP. The 1999 Legislature appropriated non-recurring funds for FY 1999-2000 to the Department of Children and Family Services to expand the Family and Community Support Program. Neither department has been given statutory planning responsibilities for the population identified in this bill.

According to BSCIP, adults who have sustained a moderate to severe traumatic brain injury and have long-term care needs are referred to their program for an evaluation to determine if there is a reasonable expectation that he or she will benefit from services based upon the goal of community reintegration. If an individual is medically stable, meets the definition of "injury" in s. 413.20(33), F.S., and there is the potential that he or she may benefit from rehabilitation, the BSCIP provides post acute inpatient and outpatient rehabilitation services, transitional living services, adaptive modifications and equipment, rehabilitation engineering, and other services necessary for community reintegration. According to BSCIP, a person is no longer eligible for their program when he or she has been reintegrated into the community and is living independently with moderate assistance. At that time the BSCIP provides no more supports or services to the person or the family to sustain the living situation.

During FY 1996-97, BSCIP reports 2,100 persons who sustained a moderate to severe traumatic brain injury were reported to their central registry. Of that total, BSCIP served approximately 500 persons who were medically stable and were reasonably expected to benefit from rehabilitation services based upon the goal of community reintegration.

After a moderate to severe traumatic brain injury, a person will never return fully to his or her former degree of functioning. Once persons have been reintegrated and are living in their own homes or with friends or family, the challenge is to maintain them in the community and keep their living situations stable. Families need varying degrees of long term supports and services. Needs range from intermittent assistance with daily living, structured daily activities, 24-hour supervision, and long-term residential care. Community supports that help a person remain at home or with their family include services such as personal assistance services, companion services, behavioral training, respite care, time and money management training, basic living skills, family counseling, and personal problem-solving.

Persons with impulsive or destructive behavior as a result of a brain injury are particularly difficult to serve. It is estimated by BSCIP that approximately 50 persons per year have serious neurobehavioral problems and require frequent and intensely supervised services in a structured environment. These persons typically exhibit inappropriate and disruptive behaviors (combative, physically and verbally aggressive, occasionally violent, subject to impulsive and possibly illegal behaviors without understanding or even considering the consequences of their actions). Without some assistance, these persons are at risk of being court ordered to the Department of Children

and Family Services for placement in a more expensive residential mental health or developmental services facility. Staff in mental health and developmental services facilities usually do not have the necessary skill and expertise to effectively meet the needs of clients with serious brain injury. The Department of Children and Family Services reports that they are spending over \$150,000 per year for each person with a traumatic brain injury who is placed by the court in one of their state-owned or contracted programs under the authority of chapters 393, 394, or 397, F.S.

The General Appropriations Act for FY 1998-99 appropriated \$1,253,331 to the Spinal Cord Injury Rehabilitation program to establish a Medicaid home and community based waiver program for persons with traumatic brain injuries and persons with spinal cord injuries. The Agency for Health Care Administration and the Vocational Rehabilitation program in the Department of Labor and Employment Security were notified on January 19, 1999, that the federal Health Care Financing Administration approved the Medicaid home and community based waiver for persons with traumatic brain injuries and persons with spinal cord injuries. The waiver program began in July, 1999, to provide long term supports and services to approximately 200 persons who meet nursing home level of care for an average annual cost of \$14,000 per person. The department anticipates that most of these funds will serve persons with spinal cord injuries. Even with the Medicaid waiver program, many persons with traumatic brain injuries will not be served.

The Brain and Spinal Cord Injury Program funds the Brain Injury Association of Florida to operate as pilot projects two Family and Community Support Offices for individuals with traumatic brain injury and their families in Miami and Orlando. The Brain Injury Association of Florida also operates one privately funded Family and Community Support Office in the Jacksonville area, and one in the Broward/Palm Beach area funded for half of this fiscal year by public and private funding sources. The Department of Children and Family Services received \$350,000 in non-recurring funds in the FY 1999-2000 General Appropriations Act to expand the Family and Community Support Program to four more locations and to fund the second half of the year in Broward/Palm Beach. The family support specialists in these offices help individuals and families obtain a variety of supports in the local community at no cost or low cost to the family, but they have no funds with which to purchase services. They also provide education and training to people in the community who are interested in traumatic brain injury, such as staff of mental health centers, rehab-to-work programs, recreational programs, legal aid agencies, etc. Currently, each of the three more established offices provide moral support, advocacy, and assist in obtaining follow-along services for a minimum of 50 individuals and families annually. The five new offices are expected to serve approximately 175 more individuals and families through June 2000.

III. Effect of Proposed Changes:

SB 342 creates s. 402.09, F.S., authorizing the Department of Children and Family Services to establish a program of long-term supports and services for persons who have sustained brain injuries and whose needs cannot be met through other programs related to brain injury located in the Department of Health, Department of Labor and Employment Security, or the Department of Children and Family Services. This program would be the program of last resort for persons who have sustained traumatic brain injuries. The bill specifies that this program is contingent upon specific legislative appropriations and that the determination of eligibility process for this program must ensure that the person is ineligible for other programs or has needs that cannot be met

through other programs of the department or through other agencies for which he or she is eligible.

The bill does not define or describe the long-term supports and services that would be delivered to this population. According to the department, some of the long-term services needed by persons with traumatic brain injury include: family respite, behavior management, supported employment, and personal assistance. The bill does not specify whether the Department of Children and Family Services would operate programs or facilities or would purchase these long-term supports and services. The bill states, however, that these supports and services may be purchased by the Department of Children and Family Services and states that the program is intended to prevent inappropriate residential and institutional placements.

The bill directs the Department of Children and Family Services to adopt rules for implementing and administering the program and establishing eligibility criteria for persons applying for and receiving services from the program.

This bill could result in a duplication of services or greater fragmentation of services because the BSCIP is now in the Department of Health. The bill provides no clear distinction between the role of BSCIP and the role of the Department of Children and Family Services in providing long-term supports and services to this population.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 342 could offset certain costs for care and supports that are now being paid by the family.

C. Government Sector Impact:

The bill specifies that the program for persons with traumatic brain injuries is contingent upon specific legislative appropriations.

The BSCIP program in the Department of Health cannot determine the number of persons throughout the state needing long-term supports and services who are not receiving these services through existing state or federal programs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Children and Families:

Authorizes the Department of Health rather than the Department of Children and Family Services to establish a program of long-term community-based supports and services for individuals who have sustained traumatic brain injuries.