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DATE: April 3, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 95
RELATING TO: Mental Health Hospitals
SPONSOR(S): Representative(s) Harrington and others

TIED BILL(S):

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

- (1) CHILD AND FAMILY SECURITY YEAS 7 NAYS 0
 - (2) STATE ADMINISTRATION YEAS 5 NAYS 0
 - (3) FISCAL POLICY AND RESOURCES
 - (4) COUNCIL FOR HEALTHY COMMUNITIES
 - (5)
-

I. SUMMARY:

There are currently seven state mental health facilities. Three facilities are operated by the state primarily for civil commitments (Florida State Hospital, Northeast Florida State Hospital, and G. Pierce Wood Memorial Hospital). Two are operated by the state as forensic facilities (North Florida Evaluation and Treatment Center and South Florida Evaluation and Treatment Center). Two other facilities are privately operated (South Florida State Hospital and West Florida Community Care Center).

This bill amends sections 394.453 and 394.457, F.S., to require the Department of Children and Families (DCF) to maintain and operate mental health hospitals, including, but not limited to, the Florida State Hospital, Northeast Florida State Hospital and G. Pierce Wood Memorial Hospital (GPW) in designated locations.

The closure of G. Pierce Wood Memorial Hospital (GPW) is included in the Governor's Recommended Budget along with \$25 million to increase community treatment capacity. The Department of Children and Families is planning to close GPW over a period beginning in July 2001 and ending in April 2002. GPW has 382 beds and serves approximately 900 patients annually. Its 979 employees make up 10.8% of the workforce in rural DeSoto County.

See comments by the Committee on State Administration in "Other Comments" section of this analysis.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

State mental health institutions provide inpatient hospital treatment to adults with severe and persistent mental illness. Civil institutions provide treatment to enable residents to manage their psychiatric symptoms so that they can return to the community. Forensic hospitals are to restore the legal competency of adults who have been charged with a felony so that they can proceed through the judicial system. During the 1998-99 fiscal year, state mental health institutions served 4,305 clients.

There are currently seven state mental health facilities. Three facilities are operated by the state for primarily civil commitments (Florida State Hospital, Northeast Florida State Hospital, and G. Pierce Wood Memorial Hospital). Two facilities are privately operated (South Florida State Hospital and West Florida Community Care Center). Two other state-operated facilities are operated as forensic facilities (North Florida Evaluation and Treatment Center and South Florida Evaluation and Treatment Center).

Since 1979, it has been the intent of Florida law to treat adults with mental illness in the least restrictive, most appropriate treatment settings within available resources. Section 394.453, F.S., expresses Legislative intent that "...the least restrictive means of intervention be employed based on the individual needs of each person, within the scope of available services." The 1979 change in statute reflected medical advances in the treatment of mental illness and a philosophical shift from institutional care to less restrictive community-based care. While some clients need institutional treatment because of the severity of their mental illness, new treatments, a new generation of effective medication, budget considerations and societal changes have resulted in a nation wide reduction in use of mental health hospitals.

Estimated department expenditures in fiscal year 2000-2001 were \$282 million to serve 2,700 adults in civil institutional treatment, compared to \$203 million to serve 53,736 adults in community mental health facilities. The Office of Program Policy Analysis and Government Accountability (OPPAGA) found that in fiscal year 1998-99 the average annual cost to serve individuals with mental illnesses in Florida's state mental institution was \$72,000 per client. Although costs of community placements vary widely depending on client needs, the department's highest estimated cost of serving individuals with mental illnesses in community settings was \$44,000 per person per year. Much of the higher cost of serving individuals in mental health institutions is due to the high fixed costs for large facility operations and maintenance. Institutional care is becoming more

expensive. Despite declining bed capacity, program appropriations have risen 25% since 1990, in part due to increased operating costs with reduced economies of scale within institutions.

In its justification review OPPAGA found that over 300 clients out of 2,400 residing in civil institutions could be served in less restrictive and less costly community treatment programs if these were available. Some clients await discharge from an institution because appropriate treatment placements in their home communities are not available. Needed community treatment alternatives include short-term psychiatric hospitals, residential treatment facilities, and assertive community treatment services. Some clients who have not been diagnosed with a major mental disorder are in need of nursing home care given their complex medical conditions.

State mental health institutions are facing a severe reduction in federal funding. Beginning in fiscal year 2001-02, state mental institutions are scheduled to lose funds they currently receive from the federal Medicaid Disproportionate Share Program. As part of the Omnibus Budget Reconciliation Acts of 1980 and 1981, the Disproportionate Share Hospital Program provides supplemental payments to cover costs for indigent patients at state civil institutions. The Balanced Budget Act of 1997 reduced federal dollars for this program. By fiscal year 2002-03, these cuts will be \$29.6 million, or almost 11% of the state's budget for mental institutions. At the current time, however, this reduction is not included in the federal budget for fiscal year 2001-2002. It is unclear what future impacts may be.

The Department of Children and Families has recommended the closure of the G. Pierce Wood Memorial Hospital to implement its long-range plans to provide community based care as an alternative to institutionalization, and to meet the expected reduction in federal funding. GPW has 382 beds and serves approximately 900 patients annually. The census of GPW in November 2000 was 288 patients. Currently about 30% of persons at the hospital are there less than 6 months and another 30% have been there for two years or less. The DCF closing of GPW will redirect patients into less costly short-term residential treatment and an expanded crisis stabilization system that should reduce the need for state hospital admissions and facilitate discharge from them. Based on the department's most recent analysis all but 66 people could be served in the community given appropriate resources. The remaining 66 individuals can be transferred to other state hospitals.

The department estimates that closing G. Pierce Wood and moving clients into community treatment programs or other institutions would cost \$21.8 million in Fiscal Year 2002-03, which is less than half the \$45.2 million it would cost to continue to serve these clients at G. Pierce Wood.

In its review OPPAGA found the closure of GPW is consistent with statute and appears to be the most feasible way to cut program costs. OPPAGA also finds additional investments are needed to increase the capacity of community mental health programs.

According to OPPAGA, the primary drawback to closing GPW is the adverse impact the closing would have on the economy of DeSoto County. G. Pierce Wood is located in a rural area of Southwest Florida and hospital employees represent a significant percentage of the total workforce and personal income in DeSoto County. As of May 2000, G. Pierce Wood has 979 employees, which represent 10.8% of the workforce and 5.6% of the personal income in DeSoto County.

The 2000 Legislature appropriated \$11 million in state funds that would create 280 new jobs in DeSoto County and neighboring Charlotte County that should help to mitigate the loss of jobs at G. Pierce Wood.

The Department of Children and Families, Department of Corrections, and Department of Juvenile Justice have plans to create other new facilities and services over the next two years in DeSoto and surrounding counties that would create more jobs than would be needed to fully offset the loss of

jobs at G. Pierce Wood. If the Legislature were to fund these agencies' requests for a new facility for sexually violent offenders, the expansion of a short-term residential treatment program, and new juvenile justice programs 1,150 new jobs would be created.

The decision to close G. Pierce Wood Memorial Hospital is included in the Governor's Recommended Budget along with \$25 million to increase community treatment capacity to meet the expected need for local services.

Finally, G. Pierce Wood is currently under a consent decree as part of Johnson v Murphy, pending in the U.S. District Court for the Middle District of Florida. Issues in this case were recently tried and no judgment has yet been rendered.

C. EFFECT OF PROPOSED CHANGES:

The bill proposes intent language in s. 394.53, F.S., that "It is also the intent of the Legislature that the state shall maintain and operate mental health hospitals, including, but not limited to the Florida State Hospital, in Chattahoochee, Jackson County; Northeast Florida State Hospital in Macclenny, Baker County; and G. Pierce Wood Memorial Hospital in Arcadia, DeSoto County."

The passage of this bill would most affect G. Pierce Wood Memorial Hospital because DCF is planning to close the hospital over an extended period, beginning in July 2001 and ending in April 2002.

According to the department, \$25,381,777 is included in the Governor's Recommended Budget to increase community treatment capacity in areas served or impacted by the closure of the hospital, including \$8,900,000 to expand treatment initiatives (funding possible because the federal budget reduction is not anticipated to happen, as well as a block grant increase); and \$2,634,713 for anticipated leave buyouts associated with the hospital closure. These funds would not be available to increase community service capacity if GPW is not closed.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends section 394.453 regarding legislative intent to add the intent of the Legislature that the state shall maintain and operate mental health hospitals including but not limited to Florida State Hospital, Northeast Florida State Hospital and G. Pierce Wood Memorial Hospital in their respective communities.

Section 2. Amends section 394.457 regarding operation and administration to add paragraph (c) to subsection (2) requiring that the department is responsible for the maintenance and operation of the state hospitals, including but not limited to, Florida State Hospital, Northeast Florida State Hospital and G. Pierce Wood Memorial Hospital in their respective communities.

Section 3. Requires the act shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

According to the department, should the G. Pierce Wood facility not be closed, the department's budget would need to be continued as in the FY 2000-2001 to provide the funds for the facility (\$43,387,241). With respect to the FY 2001-2002 proposed department budget, the passage of this legislation would negatively effect the reduction proposal associated with G. Pierce Wood, and the reduction issue of 294 positions and \$25,675,147 (as well as the leave buyout of \$2,634,713) would be affected by this legislative proposal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

At the current time the federal reduction in disproportionate share funds for indigent clients is not included in the federal budget for fiscal year 2001-2002. It is unclear what future funding will be. The department and the Governor remain committed to close the institution as part of the department's long-range plan and proposed budget reduction. The budget reduction associated with this closure in the FY 2001-2002 Governor's Recommended Budget is a reduction of 294 positions and \$25,675,147.

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 revenue raising authority.

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

In July 1999, the U. S. Supreme Court issued the Olmstead v. L.C. decision. The decision interpreted Title II of the Americans with Disabilities Act (ADA) and its implementing regulations. Under the Court's ruling, unjustified institutionalization of people with disabilities is discrimination and violates the ADA. States are required to provide community-based services for persons with disabilities, who are otherwise entitled to institutional services, when: the state's treatment professionals reasonably determine that community placement is appropriate; the person does not oppose such placement; and the placement can reasonably be accommodated, taking into account resources available to the state and the needs of others receiving state-supported disability services. A person cannot be denied community services just to keep an institution at its full capacity.

Advocates for disabled persons have interpreted the decision as supporting client choice to receive community based care in place of institutionalization. States have interpreted the decision as allowing them flexibility to manage state resources to provide a range of services in existing settings while they phase in community-based care.

An amendment has been prepared to remedy a technical error in the bill that places Chattahoochee in Jackson, not Gadsden County.

Comments by the Committee on State Administration

Specific language from the Governor's Recommended Budget includes the closure of G. Pierce Wood Memorial Hospital (GPW). "Included in the Executive Budget is \$34 million in funding to address mental health needs in the community. These funds will be targeted to Southwest Florida to compensate for the closure of G. Pierce Wood Hospital and will serve an additional 2,200 clients."¹

If the General Appropriations bill contains the provisions recommended by the Governor, and this bill passes, a constitutional issue arises. In *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980), the Florida Supreme Court concluded that an appropriations bill must not change or amend existing law on subjects other than appropriations. Proviso language can place restrictions or limitations in the appropriations bill if interdependent with the appropriation itself. However, proviso language cannot alter or amend substantive law. HB 95 expressly provides for the continued maintenance and operation of GPW; accordingly, if the General Appropriations bill contains language that closes GPW, it would be subject to constitutional challenge.

¹ Governor's Recommended Budget, Health and Human Services Section, [On-line], pg. 2.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 8, 2001, the Committee on Child & Family Security adopted the following amendments to HB 95.

Amendment # 1 [Section 1, page 2, lines 17 & 27].

Corrects technical error of county location of Florida State Hospital to Gadsden County.

Amendment # 2 [Section 2, page 2, between lines 29 & 30] with Title.

Adds provision that the department shall not reduce population or beds at G. Pierce Wood Memorial Hospital until adequate community based care has been in place in the hospital catchment area for six months.

VII. SIGNATURES:

COMMITTEE ON CHILD AND FAMILY SECURITY:

Prepared by:

Glenn Mitchell

Staff Director:

Bob Barrios

AS REVISED BY THE COMMITTEE ON STATE ADMINISTRATION:

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