

STORAGE NAME: h1659.frc.doc
DATE: February 25, 2002

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 1659
RELATING TO: Supportive Housing
SPONSOR(S): Representative(s) Justice, Bilirakis
TIED BILL(S):

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

- (1) CHILD & FAMILY SECURITY YEAS 8 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL
 - (3) COUNCIL FOR HEALTHY COMMUNITIES
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

House Bill 1659 directs the Secretary of the Department of Children and Family Services (DCF) and the Secretary of the Agency for Health Care Administration (AHCA) to establish a workgroup to review issues related to consumer protection in state-funded supportive housing. Workgroup objectives are limited to making recommendations regarding:

- The development of licensure requirements.
- Annual surveys to determine appropriateness of placements.
- A consumer bill of rights that provides civil liability protection for persons choosing to live in a supportive housing environment.

It provides for membership and staff of workgroup; requires legislative recommendations; and requires a report by January 1, 2003.

The effective date of the bill is upon becoming law.

On February 21, 2002, the Committee on Child and Family Security reported the bill favorably with a strike-all amendment traveling with the bill. The amendment deletes the licensure requirements, the annual surveys and the consumer bill of rights to eliminate the original fiscal impact. It clarifies that the workgroup's objectives are development of administrative rules that define supportive housing services and use of funds, and protection of consumer health and safety. The amendment expands the organizations represented on the workgroup, and provides for staffing by DCF.

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

The Continuum of Community Living Arrangements

Currently, people in the community with severe and persistent mental illness reside in the following types of state supported living arrangements: Residential Treatment Facilities; Assisted Living Facilities, Adult Family Care Homes and Nursing Homes; Supportive Housing; and Other Specialized Facilities:

State and Federal Statutory Provisions for Least Restrictive Living Situation

Individual choice and self-determination have become the core principles influencing disability policy on a national, state and individual level.

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 the use of mental health hospitals.

In July 1999, the U. S. Supreme Court issued the Olmstead v. L.C. decision that 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 that violates the ADA, and is not consistent with individual rights.

The President of the United States issued an Executive Order, June 19, 2001, on Community-Based Alternatives for Individuals with Disabilities. This order reaffirms that unjustified isolation or segregation of qualified individuals with disabilities through institutionalization is a form of disability-based discrimination. This discrimination is prohibited by Title II of the Americans with Disabilities Act of 1990 (ADA), that mandates that states must avoid disability-based discrimination unless

doing so would fundamentally alter the nature of the service, program or activity provided by the state.

Supportive Housing

Supportive housing programs provide supports for persons with a mental illness who reside in their personal home. Supportive housing is a set of personalized services to the individual and not a residential placement. The intent of these services is to allow the individual to become, or remain, integrated into the "normalized" community at large. Nursing homes, assisted living facilities, adult family care homes and licensed mental health residential treatment facilities provide essential services to those who need a structured and supervised environment. Supportive housing is designed as another level of care that enables a person to live independently with individualized supports.

Services Provided by Supportive Housing

The supportive housing option in Florida was developed as part of the national movement for consumer-directed care. Persons with mental illness, whenever possible, want to choose their own living environments. However, many are poor and need assistance with rent to live in a safe environment. Research has repeatedly shown that a safe living place that individuals choose for themselves is the most successful deterrent from criminal activity and hospitalization. The supportive housing option avoids dependence on a facility-based program, but provides support in a natural environment.

A person receiving supportive housing services has the same rights and protections as any homeowner or apartment renter. The intent of supportive housing services is to support individualized, normal, community living by choice for persons with a serious mental illness.

C. EFFECT OF PROPOSED CHANGES:

This bill directs the Secretary of the Department of Children and Family Services and the Secretary of the Agency for Health Care Administration to establish a workgroup to develop licensure requirements, annual surveys to determine appropriateness of placements, and a consumer bill of rights that provides civil liability protection for persons choosing to live in a supportive housing environment. It provides for membership and staff of the workgroup; requires legislative recommendations; and requires a report by January 1, 2003.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Directs the Secretary of the Department of Children and Family Services and the Secretary of the Agency for Health Care Administration to establish a workgroup to review issues related to consumer protection in state-funded supportive housing.

Workgroup objectives are limited to making recommendations regarding:

- The development of licensure requirements.
- Annual surveys to determine appropriateness of placements.
- A consumer bill of rights that provides civil liability protection for persons choosing to live in a supportive housing environment.

This section provides for membership and staff of the workgroup. The section requires recommendations to the Legislature and a report due January 1, 2003.

Section 2. Establishes the effective date of the bill is upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

According to the Department of Children and Family Services, there would be some costs associated with the convening of a workgroup. These costs would apply to the Department of Children and Family Services, Agency for Health Care Administration, and other representatives of the workgroup. In addition, the Department estimates the cost of licensure requirements and the annual surveys would cost approximately \$1.8 million in Fiscal Year 2002-2003 and \$2.4 million in Fiscal Year 2003-2004.

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:

The bill will not reduce the authority of municipalities and counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 21, 2002, the Committee on Child and Family Security reported the bill favorably with a strike-all amendment that deleted the licensure requirements, the annual surveys, and the consumer bill of rights. These changes eliminate the fiscal impact discussed under the FISCAL COMMENTS section. The amendment also clarifies that the workgroup's objectives are development of administrative rules that define supportive housing services and use of funds, and protection of consumer health and safety. The amendment expands the organizations represented on the workgroup, and provides for staffing by DCF.

VII. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:

Glenn Mitchell

Staff Director:

Robert Brown-Barrios

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Stephanie Massengale

Staff Director:

David Coburn