

By Senator Silver

38-1160-02

1 A bill to be entitled
 2 An act relating to the Department of Children
 3 and Family Services; amending s. 216.181, F.S.;
 4 providing for the use of funds by the
 5 department; creating s. 287.0583, F.S.;
 6 providing for the imposition of a surcharge;
 7 amending s. 393.063, F.S.; redefining the term
 8 "support coordinator"; amending s. 393.0651,
 9 F.S.; revising provisions relating to family or
 10 individual support plans; amending s. 394.74,
 11 F.S.; prescribing a specified contract
 12 requirement; amending s. 394.908, F.S.;
 13 revising provisions relating to funding for
 14 substance-abuse and mental-health services;
 15 amending s. 414.035, F.S.; revising provisions
 16 authorizing expenditures by the department;
 17 authorizing the sale of a hospital and
 18 providing for the use of the proceeds;
 19 providing an effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. Paragraph (c) of subsection (16) of section
 24 216.181, Florida Statutes, is amended to read:

25 216.181 Approved budgets for operations and fixed
 26 capital outlay.--

27 (16)

28 (c) Unless specifically prohibited in the General
 29 Appropriations Act, funds appropriated to the Department of
 30 Children and Family Services and the Department of Health may
 31 be advanced for those contracted services that were approved

1 for advancement by the Comptroller in fiscal year 1993-1994,
2 including those services contracted on a fixed-price or
3 unit-cost basis.~~For the 2001-2002 fiscal year only, funds~~
4 ~~appropriated to the Department of Children and Family Services~~
5 ~~in Specific Appropriations 302-466 and the Department of~~
6 ~~Health in Specific Appropriations 503-637 of the 2001-2002~~
7 ~~General Appropriations Act may be advanced, unless~~
8 ~~specifically prohibited in such General Appropriations Act,~~
9 ~~for those contracted services that were approved for~~
10 ~~advancement by the Comptroller in fiscal year 1993-1994,~~
11 ~~including those services contracted on a fixed-price or~~
12 ~~unit-cost basis. This paragraph expires July 1, 2002.~~

13 Section 2. Section 287.0583, Florida Statutes, is
14 created to read:

15 287.0583 Surcharge on contracts with the Department of
16 Children and Family Service.--The Department of Children and
17 Family Services may impose a surcharge on contracts for the
18 purchase of health and human services in order to fund the
19 department's costs of managing, monitoring, and administering
20 the contracts to ensure compliance with contract terms. The
21 amount of the surcharge shall be calculated as a percentage of
22 the total value of the contract, up to a maximum of 5 percent.
23 The contractor shall remit the surcharge to the department
24 according to provisions specified in the contract. All
25 surcharges collected under this section must be deposited into
26 the department's Administrative Trust Fund and are subject to
27 legislative appropriation. Surcharges collected under this
28 section and any interest income on the surcharges are not
29 considered to be income of a revenue nature for the purposes
30 of chapter 215.

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1 Section 3. Subsection (47) of section 393.063, Florida
2 Statutes, is amended to read:

3 393.063 Definitions.--For the purposes of this
4 chapter:

5 (47) "Support coordinator" means a person who is
6 designated by the department to assist individuals and
7 families in identifying their desires, capacities, needs, and
8 resources, as well as finding and gaining access to necessary
9 supports and services; coordinating the delivery of supports
10 and services; advocating on behalf of the individual and
11 family; maintaining relevant records; and monitoring and
12 evaluating the delivery of supports and services to determine
13 the extent to which they meet the needs and expectations
14 identified by the individual, family, and others who
15 participated in the development of the support plan. The
16 decision to use the services of a support coordinator, as well
17 as the frequency, scope, and intensity of the support
18 coordinator's activities shall be determined by the individual
19 or individual's legal guardian.

20 Section 4. Section 393.0651, Florida Statutes, is
21 amended to read:

22 393.0651 Family or individual support plan.--The
23 department shall provide for a an appropriate family support
24 plan for children ages birth to 18 years of age and an
25 individual support plan for each client. The ~~parent or~~
26 ~~guardian of the client~~ or, if competent, or the client's
27 parent or guardian ~~the client,~~ or, when appropriate, the
28 client advocate, shall be consulted in the development of the
29 plan and shall receive a copy of the plan. Each plan shall
30 include the most appropriate, least restrictive, and most
31 cost-beneficial environment for accomplishment of the

1 objectives for client progress and a specification of all
2 services authorized. The plan shall include provisions for the
3 most appropriate level of care for the client. Within the
4 specification of needs and services for each client, when
5 residential care is necessary, the department shall move
6 toward placement of clients in residential facilities based
7 within the client's community. The ultimate goal of each plan,
8 whenever possible, shall be to enable the client to live a
9 dignified life in the least restrictive setting, whether be
10 ~~that~~ in the home or in the community. For children under 6
11 years of age, the family support plan shall be developed
12 within the 45-day application period as specified in s.
13 393.065(1); for all applicants 6 years of age or older, the
14 family or individual support plan shall be developed within
15 the 60-day period as specified in that subsection.

16 (1) The department shall develop and specify by rule
17 the core components of support plans to be used by each
18 district.

19 (2)(a) The family or individual support plan shall be
20 integrated with the individual education plan (IEP) for all
21 clients who are public school students entitled to a free
22 appropriate public education under the Individuals with
23 Disabilities Education Act, I.D.E.A., as amended. The family
24 or individual support plan and IEP shall be implemented to
25 maximize the attainment of educational and habilitation goals.
26 If the IEP for a student enrolled in a public school program
27 indicates placement in a public or private residential program
28 is necessary to provide special education and related services
29 to a client, the local education agency shall provide for the
30 costs of that service in accordance with the requirements of
31 the Individuals with Disabilities Education Act, I.D.E.A., as

1 amended. This shall not preclude local education agencies and
2 the department from sharing the residential service costs of
3 students who are clients and require residential placement.
4 Under no circumstances shall clients entitled to a public
5 education or their parents be assessed a fee by the department
6 under s. 402.33 for placement in a residential program.

7 (b) For clients who are entering or exiting the school
8 system, an interdepartmental staffing team composed of
9 representatives of the department and the local school system
10 shall develop a written transitional living and training plan
11 with the participation of the client or with the parent or
12 guardian of the client, or the client advocate, as
13 appropriate.

14 (3) Each family or individual support plan shall be
15 facilitated through case management designed solely to advance
16 the individual needs of the client.

17 (4) In the development of the family or individual
18 support plan, a client advocate may be appointed by the
19 support planning team for a client who is a minor or for a
20 client who is not capable of express and informed consent
21 when:

22 (a) The parent or guardian cannot be identified;

23 (b) The whereabouts of the parent or guardian cannot
24 be discovered; or

25 (c) The state is the only legal representative of the
26 client.

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28 Such appointment shall not be construed to extend the powers
29 of the client advocate to include any of those powers
30 delegated by law to a legal guardian.

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1 (5) The department shall place a client in the most
2 appropriate and least restrictive, and cost-beneficial,
3 residential facility according to his or her individual
4 habilitation plan. The parent or guardian of the client or, if
5 competent, the client, or, when appropriate, the client
6 advocate, and the administrator of the residential facility to
7 which placement is proposed shall be consulted in determining
8 the appropriate placement for the client. Considerations for
9 placement shall be made in the following order:

10 (a) Client's own home or the home of a family member
11 or direct service provider.

12 (b) Foster care facility.

13 (c) Group home facility.

14 (d) Intermediate care facility for the developmentally
15 disabled.

16 (e) Other facilities licensed by the department which
17 offer special programs for people with developmental
18 disabilities.

19 (f) Developmental services institution.

20 (6) In developing a client's annual family or
21 individual support plan, the individual or family with the
22 assistance of the support planning team shall identify
23 measurable objectives for client progress and shall specify a
24 time period expected for achievement of each objective.

25 (7) ~~The individual, family, and support coordinator~~
26 ~~shall review progress in achieving the objectives specified in~~
27 Each client's family or individual support plan must be
28 reviewed and revised, and shall revise the plan annually,
29 following consultation with the client, if competent, or with
30 the parent or guardian of the client, or, when appropriate,
31 the client advocate. The department shall annually report in

1 writing to the client, if competent, or to the parent or
2 guardian of the client, or to the client advocate, when
3 appropriate, with respect to the client's habilitative and
4 medical progress.

5 (8) Any client, or any parent of a minor client, or
6 guardian, authorized guardian advocate, or client advocate for
7 a client, who is substantially affected by the client's
8 initial family or individual support plan, or the annual
9 review thereof, shall have the right to file a notice to
10 challenge the decision pursuant to ss. 120.569 and 120.57.
11 Notice of such right to appeal shall be included in all
12 support plans provided by the department.

13 Section 5. Subsection (3) of section 394.74, Florida
14 Statutes, is amended to read:

15 394.74 Contracts for provision of local substance
16 abuse and mental health programs.--

17 (3) Contracts shall include, but are not limited to:

18 (a) A provision that, within the limits of available
19 resources, substance abuse and mental health crisis services,
20 as defined in s. 394.67(4), shall be available to any
21 individual residing or employed within the service area,
22 regardless of ability to pay for such services, current or
23 past health condition, or any other factor;

24 (b) A provision that such services be available with
25 priority of attention being given to individuals who exhibit
26 symptoms of chronic or acute substance abuse or mental illness
27 and who are unable to pay the cost of receiving such services;

28 (c) A provision that every reasonable effort to
29 collect appropriate reimbursement for the cost of providing
30 substance abuse and mental health services to persons able to
31 pay for services, including first-party payments and

1 third-party payments, shall be made by facilities providing
2 services pursuant to this act;

3 (d) A program description and line-item operating
4 budget by program service component for substance abuse and
5 mental health services, provided the entire proposed operating
6 budget for the service provider will be displayed; ~~and~~

7 (e) A provision that client demographic, service, and
8 outcome information required for the department's Mental
9 Health and Substance Abuse Data System be submitted to the
10 department by a date specified in the contract. The department
11 may not pay the provider unless the required information has
12 been submitted by the specified date; and

13 (f)~~(e)~~ A requirement that the contractor must conform
14 to department rules and the priorities established thereunder.

15 Section 6. Section 394.908, Florida Statutes, is
16 amended to read:

17 394.908 Substance abuse and mental health funding
18 equity; distribution of appropriations.--In recognition of the
19 historical inequity among service districts of the former
20 Department of Health and Rehabilitative Services in the
21 funding of substance abuse and mental health services, and in
22 order to rectify this inequity and provide for equitable
23 funding in the future throughout the state, the following
24 funding process shall be adhered to:

25 (1) Funding thresholds for substance abuse and mental
26 health services in each of the current districts, statewide,
27 shall be established based on the current number of persons in
28 need per district of substance abuse and mental health
29 services, respectively.

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1 (2) "Persons in need" means those persons who fit the
2 profile of the respective target populations and require
3 mental health or substance abuse services.

4 (3) ~~Seventy-five percent of~~ Any additional funding
5 beyond the 2000-2001 ~~1996-1997~~ fiscal year base appropriation
6 for alcohol, drug abuse, and mental health services shall be
7 allocated to districts for substance abuse and mental health
8 services based on:

9 (a) Epidemiological estimates of disabilities which
10 apply to the respective target populations.

11 (b) A pro rata share distribution that ensures
12 districts below the statewide average funding level per person
13 in each target population of "persons in need" receive funding
14 necessary to achieve equity.

15 ~~(4) The remaining 25 percent shall be allocated based~~
16 ~~on the number of persons in need of substance abuse and mental~~
17 ~~health services per district without regard to current funding~~
18 ~~levels.~~

19 (4)~~(5)~~ Target populations for persons in need shall be
20 displayed for each district and distributed concurrently with
21 the approved operating budget. The display by target
22 population shall show: The annual number of persons served
23 based on prior year actual numbers, the annual cost per person
24 served, the number of persons served by service cost center,
25 and the estimated number of the total target population for
26 persons in need.

27 (5)~~(6)~~ The annual cost per person served shall be
28 defined as the total actual funding for each target population
29 divided by the number of persons served in the target
30 population for that year.

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1 ~~(6)(7) Commencing on July 1, 1998,~~All additional
2 funding allocated pursuant to this section shall be
3 performance-based.

4 ~~(8) For fiscal year 2001-2002 only, and~~
5 notwithstanding the provisions of this section, all new funds
6 received in excess of fiscal year 1998-1999 appropriations
7 shall be allocated, except as specified in this subsection, to
8 the G. Pierce Wood Memorial Hospital catchment area or other
9 districts or counties identified in the 2001-2002 General
10 Appropriations Act. The Department of Children and Family
11 Services is authorized to develop an alternative allocation
12 methodology based on national prevalence data for persons with
13 severe and persistent mental illness for use in the
14 distribution of new funds to the G. Pierce Wood Memorial
15 Hospital catchment area. No district shall receive an
16 allocation of recurring funds less than its initial approved
17 operating budget, plus any distributions of lump sum
18 appropriations, for fiscal year 1998-1999, except for
19 adjustments needed to implement the SunCoast Region. This
20 subsection expires July 1, 2002.

21 Section 7. Section 414.035, Florida Statutes, is
22 amended to read:

23 414.035 Authorized expenditures.--Any expenditures
24 from the Temporary Assistance for Needy Families block grant,
25 or from other state funds that the secretary or his or her
26 designee determines meets the maintenance-of-effort
27 requirement for the block grant, must ~~shall~~ be expended in
28 accordance with the requirements and limitations of part A of
29 Title IV of the Social Security Act, as amended, or any other
30 applicable federal requirement or limitation. Prior to any
31 expenditure of such funds, the secretary ~~of Children and~~

1 ~~Family Services~~, or his or her designee, shall certify that
2 controls are in place to ensure such funds are expended in
3 accordance with the requirements and limitations of federal
4 law and that any reporting requirements of federal law are
5 met. It shall be the responsibility of any entity to which
6 such funds are appropriated to obtain the required
7 certification prior to any expenditure of funds.

8 Section 8. Upon approval of the Board of Trustees of
9 the Internal Improvement Trust Fund, the Division of State
10 Lands of the Department of Environmental Protection may sell
11 the former W.T. Edwards Hospital complex located in
12 Hillsborough County, currently under lease to the Department
13 of Children and Family Services. Notwithstanding chapter 253,
14 Florida Statutes, the proceeds from the sale must be deposited
15 into the Department of Children and Family Services'
16 Administrative Trust Fund and, subject to legislative
17 appropriation, must be used to construct, renovate, equip,
18 maintain, and improve the department's facilities.

19 Section 9. This act shall take effect July 1, 2002.
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22 SENATE SUMMARY

23 Revises various funding and expenditure provisions under
24 the jurisdiction of the Department of Children and Family
25 Services. Authorizes the sale of the former W.T. Edwards
Hospital complex and provides for the use of the
proceeds.