

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 727 w/ CS  
**SPONSOR(S):** Bean & Others  
**TIED BILLS:**

Mental Health & Vocational Rehabilitation  
**IDEN./SIM. BILLS:** SB 2894

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Elder Affairs &amp; Long Term Care (Sub)</u>	<u>9 Y, 0 N</u>	<u>Meyer</u>	<u>Liem</u>
2) <u>Future of Florida's Families</u>	<u>13 Y, 0 N w/CS</u>	<u>Meyer</u>	<u>Liem</u>
3) <u>Human Services Appropriations</u>	<u>5 Y, 0 N</u>	<u>Money</u>	<u>Ekholm</u>
4) <u>Appropriations</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5) <u>                                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

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### SUMMARY ANALYSIS

HB 727 w/Committee Substitute creates Part VI of chapter 394, Florida Statutes, relating to self-directed care and family-directed mental health and vocational rehabilitation services.

The Committee Substitute provides for reports, authority to request federal waivers and grants, repeal of the existing pilot project, and grants rule making authority to the Department of Children and Family Services.

The bill takes effect July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0727d.ap.doc  
**DATE:** April 16, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |

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

#### B. EFFECT OF PROPOSED CHANGES:

The existing statute, section 394.9084, Florida Statutes, created the self-directed care (SDC) pilot project in District 4 of the Department of Children and Family Services. This section of the statute expires on June 30, 2004. Currently, the pilot is funded with Mental Health funds, \$470,000 of which is from the Mental Health Block Grant and \$216,092 of which is from general revenue.

The current pilot project serves 106 adults with severe and persistent mental illnesses. The elements of the project include the development of a system that is based upon individual self-determination and recovery from mental illness through the exercise of personal choice of both providers and services. The SDC pilot uses a voucher system of purchasing. Participants choose their services and providers within a designated budget. A community taskforce in District 4 released its final recommendations for implementation of the pilot at the end of October 2001. This pilot is an original design based on the taskforce's recommendations and participant advisory board input.

The department contracts with the Institute for Health and Human Services at Florida State University to implement and administer the SDC pilot. Additionally, the department contracts with the Florida Mental Health Institute at the University of South Florida to conduct an independent evaluation of the project as mandated in the original legislation. The first year evaluation was completed in June 2003. The second evaluation will be completed in June 2004.

The Committee Substitute (CS) converts the SDC pilot project to an ongoing, statewide program and adds the Division of Vocational Rehabilitation and the Social Security Administration as co-participants. Additionally, it permits the department to implement a family-directed care (FDC) pilot in one district of the department's choosing. This pilot would provide families with the opportunity to select participant-directed and recovery-based services for children with serious emotional disturbance, emotional disturbance, or children at risk of emotional disturbance.

The CS provides legislative intent, defines eligibility standards, and enrollment criteria. These criteria are consistent with those of the existing pilot in District 4 focusing on individuals with mental illnesses who are legally competent to direct their own affairs.

The CS specifies the mental health and vocational services that can be valued and "cashed-out" to create a budget allowance for each participant. A managing entity functions as the fiscal intermediary to pay providers and maintain records. The department and the division are required to approve purchasing guidelines that allow participants to purchase needed, cost-effective mental health or vocational services that are consistent with their needs and goals. The CS does not specify how these inter-agency funding mechanisms are to be arranged.

The proposal defines participant roles and responsibilities, department roles and responsibilities, and the roles and responsibilities of the managing entity. The CS allows participants to choose the providers of services as well as when and how the services will be provided.

The CS requires that the department adhere to the original intent of the SDC pilot created pursuant to Chapter 2001-152, Laws of Florida; assess each participant's mental health and vocational needs; assist with the service plan; and provide ongoing support with the service plan. The department must establish standards for approving the fiscal intermediary. The CS specifies that the fiscal intermediary may not be a provider of behavioral health care services or be a managed healthcare organization. The CS requires that the department establish the minimum qualifications for all SDC providers and serve as the final arbiter of the fitness of any individual to be a provider. It requires the department to establish the number of available openings in the program for each district at the beginning of each fiscal year. The department will contract with the managed care entity on an annual prepaid case rate.

The CS defines the managing entity's roles and responsibilities as follows: providing record keeping and fiscal processing services; retaining the participant directed care funds; processing provider enrollment information, if any; reviewing records to ensure correctness; writing checks to providers; maintaining district level service staff; and, employing recovery coaches to provide training, technical assistance, and support to the participants.

The CS creates both statewide and local steering councils in each participating district to guide the SDC program. It defines the membership. The statewide council has at least five and no more than nine members, 1 percent of whom must be local advisory council members. The CS specifies that providers of behavioral health care services are not eligible to serve on any steering council. It requires the Department of Children and Family Services (department), the Agency for Health Care Administration (agency), and the Division of Vocational Rehabilitation in the Department of Education (division) to respond to all requests and recommendations from the local steering council in each district or subdistrict. The department has final authority and responsibility for operation of the program.

The CS requires the department to work in collaboration with the agency to seek a section 1115 waiver and to seek any available Social Security Administration waivers. It allows for the department to apply for and use any private, state, and federal grants provided for self-directed care, voucher, and self-determination programs, including those providing substance abuse and mental health services. It does not require approval of the waivers for implementation of the program.

The CS allows the department to transfer funds allocated to substance abuse and mental health services to the fiscal intermediary based on the average cost of services in the previous fiscal years for each district for every participant enrolled in the program.

The CS requires the department, the agency, and the division to assess the program and the department to annually submit a written report to the Legislature by January of each year. The department shall administer all three waivers through interagency agreements.

The CS grants the department, the agency, and the division rulemaking authority to implement the provisions of Part VI, Chapter 394, Florida Statutes, as created by this act.

The CS creates a new section of chapter 394, Florida Statutes, entitled Family-Directed Care pilot Program (FloridaFDC). The CS provides the department with authority to develop a family-directed care pilot in a district selected by the department. The CS specifies that the program must be organized and operated in the same manner as the FloridaSDC program established under section 394.9501, Florida Statutes.

The target population for the FloridaFDC pilot program is children who are at risk of emotional disturbance or who have an emotional disturbance or a serious emotional disturbance. It further specifies that the child must be living at home with his or her family as a requirement for participation in

the program. It excludes children in the custody of the department or who have a primary diagnosis of developmental disability, pervasive developmental disorder, substance abuse, communication disorder, learning disorder, or autism.

This legislation provides background screening requirements for staff providing mental health services to children, under Chapter 435.06, Florida Statutes. The CS provides general rulemaking authority for this section. The department is required to submit a progress report on this pilot to the appropriate legislative committees by December 1 of each year of the pilot program.

It provides for future repeal of the pilot program established for families and children and repeals section 394.9084, Florida Statutes, related to the pilot project for client-directed and choice-based adult mental health services on July 1, 2008. It also repeals the original legislation, section 394.9084, Florida Statutes.

#### C. SECTION DIRECTORY:

**Section 1.** The CS creates Part VI of Chapter 394, Florida Statutes, and provides that it may be known by the popular name "Florida Self-Directed Care (FloridaSDC) Act". The target population is persons with severe and persistent mental illness. It also creates section 394.9503, the Family-Directed Care Program to be known as "FloridaFDC".

**Section 2.** Section 394.9084, Florida Statutes, is repealed.

**Section 3.** This act takes effect July 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

The bill provides that the department shall expand this program as resources become available. The administrative costs for sites added after July 1, 2004 shall not be paid from funds appropriated for direct client services. The department is to operate the direct services portion of the program within the funds appropriated by the Legislature and other funds obtained through the department, agency, and division.

Although the Department of Children and Family Services initially estimated an implementation cost in its fiscal analysis of projected annual expenditures of \$922,817 for 2004 -2005 and \$86,229 for 2005-2006, the bill as amended now restricts the ability to expand the program unless additional resources become available. Since that restriction regarding program expansion within available resources was placed on the bill, the department now indicates the bill to be cost neutral and no expansion will take place unless the department can access additional funds -- perhaps through Medicaid or new federal grants.

The family directed care (FloridaFDC) pilot program authorized to be established in the bill is to be in a district selected by the department. Funds of the FloridaSDC program secured from grants

provided for substance abuse and mental health services that are designated for services for children may be used for the FloridaFDC.

The Agency for Health Care Administration projects the need for one full-time equivalent Medical/Health Care Program Analyst to develop, implement, and oversee the 1115 waiver. The fiscal impact in general revenue for Fiscal Year 2004-2005 would be \$32,068. The impact for Fiscal Year 2005-2006 would be \$30,757. The other costs of the self directed care should be budget neutral.

The Department of Education's Division of Vocational Rehabilitation also indicates that the bill is budget neutral.

No appropriation is contained in this bill, nor are there any new funds contained in the House proposed General Appropriations Act.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

No impact is identified at this time.

2. Expenditures:

None are identified at this time.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Individual consumers will be more able to select the services and providers which best meet their needs.

**D. FISCAL COMMENTS:**

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

N/A

**B. RULE-MAKING AUTHORITY:**

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The Committee Substitute differs from the original filed bill as follows:

1. Language was revised to be more "person-centered". This included deleting references to "severe and persistent" mental illness, added "goals" to provisions related to needs assessment and budget allowances, and changed the phrase "receive services" to "access services".
2. Added a provision related to an evaluation of the program and specifies that the evaluation will not be paid for from services dollars.

On April 16, 2004, the Human Services Appropriations Subcommittee adopted the following amendments to House Bill 727 w/CS:

1. Definitions are modified and added regarding an Individual Development Account, Managing entity, and Micro-enterprise.
2. A grammatical correction is made.
3. Language is conformed to the correct term defined and used in the bill -- Individual Development Account.
4. A change is made to utilize term participant in the bill instead of client.
5. The amendment specifies that participants must be enrolled in fee for service Medicaid or Medipass.