

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 727 Mental Health & Vocational Rehabilitation
SPONSOR(S): Rep. Bean
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder Affairs & Long Term Care (Sub)	9 Y, 0 N	Meyer	Liem
2) Future of Florida's Families			
3) Human Services Appropriations (Sub)			
4) Appropriations			
5)			

SUMMARY ANALYSIS

The bill creates Part VI of chapter 394, F.S. relating to self-directed care and family-directed mental health and vocational rehabilitation services.

The bill 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 & Family Services.

The bill takes effect July 1, 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, s. 394.9084, F.S., created the self-directed care (SDC) pilot project in District 4 of the Department of Children & 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 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 & 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 bill converts the SDC pilot project to an ongoing program and adds the Division of Vocational Rehabilitation and the Social Security Administration as co-participants. It also directs the department to expand the SDC pilot statewide for adults with serious and persistent mental illnesses. 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.

This legislation proposes the following actions that include, but are not limited to: creating Part VI of Chapter 394, F.S., which would relate to self-directed and family-directed mental health and vocational rehabilitation services and provides a popular name – “Florida Self-Directed Care (FloridaSDC) Act” for this new program. It also provides for a pilot program for family-directed mental health services with eligibility and other pilot program requirements.

The bill provides legislative intent and definitions for the program. The proposal defines eligibility and enrollment criteria. These criteria are consistent with those of the existing pilot in District 4 focusing on individuals with serious and persistent mental illnesses who are legally competent to direct their own affairs.

The proposal specifies the manner in which budget allowances shall be managed on behalf of participants by a fiscal intermediary approved by the department. Budget allowances are to be given quarterly and are based on the average cost to provide services to a similar individual with serious and persistent mental illness in the district for the previous fiscal year. The proposal requires the department to develop purchasing guidelines that must be approved by the agency and the division to assist participants in purchasing needed cost-effective services. The bill provides additional guidance on the use of budget allowances for community-based services for mental health and vocational needs that are cost efficient uses of funds and are in accordance with departmentally approved purchasing guidelines; however, the bill does not specifically limit the budget allowance to mental health or vocational services. The bill 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 fiscal intermediary. The bill allows participants to choose the providers of services as well as when and how the services will be provided.

The bill 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. This activity is being conducted by the fiscal intermediary under contract with the department. The department must establish standards for approving the fiscal intermediary. The bill specifies that the fiscal intermediary may not be a provider of behavioral health care services or be a managed healthcare organization. The bill 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 fiscal intermediary on an annual prepaid case rate.

The bill defines the fiscal intermediary'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 bill creates both statewide and local steering councils in each participating district to guide the SDC program. It defines the membership. It specifies that the provider of behavioral health care services is not eligible to serve on any steering council. It requires each local steering council to adopt and be governed by bylaws and to have a seat on the statewide steering council. It requires the department, agency, and 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 proposal requires the department to work in collaboration with the agency to seek a s.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 bill 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 bill 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 bill grants the department, the agency, and the division rulemaking authority to implement the provision of Part VI, Chapter 394, F.S., as created by this act.

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

The target population for the FloridaFDC 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, F.S. The bill 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 s. 394.9084, F.S., 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, s. 394.9084, F.S.

C. SECTION DIRECTORY:

Section 1. The bill creates Part VI of Chapter 394, F.S., 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, F.S., 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:

DCF projects annual expenditures of \$ 922,817 for 2004 -2005 and \$86,229 for 2005-2006.

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:

The department has worked with the Sponsor to propose amendment language that ameliorates the fiscal impact to the department.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

The department and the Agency for Health Care Administration are granted rule making authority. However, all rules must be approved by the Statewide Steering Council before being proposed for adoption. This requirement appears to violate the federal requirement that a "single state agency" manage the Medicaid program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not specify that the services purchased with the budget allowance must be mental health or vocational rehabilitation services. The bill specifies that funding for the budget allowances shall come through department funding and that the agency, Social Security Administration, and division funds are to be obtained through waivers. It does not clarify how these mechanisms are to be arranged.

This analysis was completed without an analysis from the Agency for Health Care Administration or the Division of Vocational Rehabilitation. A technical amendment is available to correct a drafting error in background screening.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Elder Affairs & Long Term Care subcommittee reported favorably an amendment that does the following:

- Clarifies that a “quality advocate” is a mental health professional licensed pursuant to chapter chapters 490 or 491, F.S.
- Clarifies the role of fiscal intermediary and renames it “managing entity”.
- Requires that participants apply for Medicaid or any other income support program for which he or she may qualify.
- Specifies that the statewide advisory council will have at least five and no more than 9 members.
- Specifies how the cash amount of the monthly budget will be calculated.