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A bill to be entitled

An act relating to mental health and vocational rehabilitation services; creating pt. VI of ch. 394, F.S., relating to self-directed and family-directed mental health and vocational rehabilitation services; providing a popular name; providing legislative findings and intent; providing definitions; providing a program for self-directed mental health and vocational rehabilitation services for adults; providing eligibility and other program requirements; providing for statewide and local steering councils; providing authority to request certain federal waivers and to request and use certain grants; providing for transfer of certain funds; providing for ongoing review and annual reports; providing rulemaking authority; providing for a pilot program for family-directed mental health services for children based on the self-directed care program for adults; providing eligibility and other pilot program requirements; providing background screening requirements; providing rulemaking authority; providing for annual reports; providing for future repeal of the pilot program; repealing s. 394.9084, F.S., relating to the pilot project for client-directed and choice-based adult mental health services; providing an effective date.

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

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28 Section 1. Part VI of chapter 394, Florida Statutes,  
 29 consisting of sections 394.9501 and 394.9503, Florida Statutes,  
 30 is created to read:

31 PART VI

32 SELF-DIRECTED AND FAMILY-DIRECTED MENTAL HEALTH AND VOCATIONAL  
 33 REHABILITATION SERVICES

34 394.9501 Self-directed mental health and vocational  
 35 rehabilitation services.--

36 (1) POPULAR NAME.--This section may be cited by the  
 37 popular name the "Florida Self-Directed Care (FloridaSDC) Act."

38 (2) LEGISLATIVE FINDINGS AND INTENT.--

39 (a) The Legislature finds that alternatives to traditional  
 40 assignment of adults with mental health needs to community  
 41 mental health centers based on geographic location should be  
 42 encouraged as a function of self-determination. The Legislature  
 43 finds that alternatives to traditional assignment of adults with  
 44 mental health needs who are also in need of vocational  
 45 rehabilitation based on sole-source contracts should be  
 46 encouraged as a function of self-determination. The Legislature  
 47 finds that giving adults in need of mental health and vocational  
 48 rehabilitation services the opportunity to select the services  
 49 they need and the providers they want enhances their sense of  
 50 dignity and autonomy. The Legislature also finds that providing  
 51 adults choice and control, as tested in current research and  
 52 demonstration projects, has been beneficial and should be  
 53 developed further and implemented statewide.

54 (b) It is the intent of the Legislature to nurture the  
 55 autonomy of those adult citizens of the state who have  
 56 psychiatric disabilities by providing access to mental health

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57 care and vocational rehabilitation services they need in the  
 58 least restrictive, most integrated setting. It is the intent of  
 59 the Legislature to give such individuals more choices in and  
 60 greater control over the purchased mental health care and  
 61 vocational rehabilitation services they receive.

62 (3) DEFINITIONS.--As used in this section, the term:

63 (a) "Agency" means the Agency for Health Care  
 64 Administration.

65 (b) "Budget allowance" means the amount of money made  
 66 available to a participant to purchase needed mental health care  
 67 and vocational rehabilitation services, based on the results of  
 68 a needs assessment.

69 (c) "Department" means the Department of Children and  
 70 Family Services.

71 (d) "Division" means the Division of Vocational  
 72 Rehabilitation of the Department of Education.

73 (e) "Fiscal intermediary" means an entity approved by the  
 74 department that helps the participant manage his or her budget  
 75 allowances.

76 (f) "Participant" means a person 18 years of age or older  
 77 who has chosen to participate in the program, who has met the  
 78 enrollment requirements, and who has received approved budget  
 79 allowances.

80 (g) "Provider" means a person licensed or otherwise  
 81 permitted to render services eligible for reimbursement under  
 82 this program for whom the participant is not the employer of  
 83 record.

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84 (h) "Recovery coach" means an individual who provides  
 85 technical assistance to participants in meeting their  
 86 responsibilities under this section.

87 (i) "Self-determination" refers to a mechanism to fiscally  
 88 allow the money to follow the individual to allow the  
 89 opportunity for freedom of choice in what is necessary to  
 90 purchase to recover from a mental illness, emotional  
 91 disturbance, or behavioral problem and to seek vocational  
 92 rehabilitation services that best fit the individual's needs.

93 (4) SELF-DIRECTED CARE.--

94 (a) Program established.--The department shall establish  
 95 the self-directed care (FloridaSDC) program for adults, which  
 96 shall be based on the principles of participant choice and  
 97 control. The department shall establish interagency cooperative  
 98 agreements with and shall work with the agency, the division,  
 99 and the Social Security Administration to implement and  
 100 administer the program. The program shall allow enrolled persons  
 101 the opportunity to choose the providers of services and to  
 102 direct the delivery of services to best meet their mental health  
 103 care and vocational rehabilitation needs. The department shall  
 104 operate the program within the funds appropriated by the  
 105 Legislature and funds obtained through agency, division, and  
 106 department waivers.

107 (b) Eligibility and enrollment.--

108 1. The target populations for the program are adults with  
 109 a severe and persistent mental illness. An adult with a severe  
 110 and persistent mental illness means a person who is age 18 or  
 111 older, has a diagnosis or diagnostic impression of Axis I or  
 112 Axis II mental disorder, and:

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- 113 a. Receives supplemental security income (SSI) due to  
114 psychiatric disability;
- 115 b. Receives social security disability income (SSDI) due  
116 to psychiatric disability;
- 117 c. Receives disabled veterans income due to psychiatric  
118 disability;
- 119 d. Receives any other type of disability income due to  
120 psychiatric disability;
- 121 e. Receives social security income for reasons other than  
122 psychiatric disability and does not need, is unable to apply, or  
123 refuses to apply for disability income;
- 124 f. Does not receive disability income due to psychiatric  
125 disability, but has an application in process or has received  
126 such income within the last 5 years; or
- 127 g. Is legally competent to direct his or her own affairs.
- 128 2. Participants must be permanent residents of the  
129 district or subdistrict in which the program they participate in  
130 is located.
- 131 (c) Budget allowances.--Participants enrolled in the  
132 program shall be given quarterly budget allowances based on the  
133 average cost to serve a similar individual in the district or  
134 subdistrict of service for the previous fiscal year. These  
135 allowances shall be paid on an annual prepaid case rate to the  
136 fiscal intermediary for management purposes. Budget allowances  
137 shall be managed on behalf of participants by a fiscal  
138 intermediary approved by the department. The department shall  
139 develop purchasing guidelines, subject to approval of the agency  
140 and the division, to assist participants in using the budget  
141 allowances to purchase needed, cost-effective services. Funding

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142 for budget allowances shall come through department funding,  
 143 agency funds obtained through any waiver of s. 1115 of the  
 144 Social Security Act, 42 U.S.C. s. 1315, or division funds  
 145 obtained through any special vocational rehabilitation waiver.

146 (d) Services.--Participants shall use budget allowances  
 147 only to pay for community-based services that meet the  
 148 participant's mental health care and vocational rehabilitation  
 149 needs and are a cost-efficient use of funds. The department, the  
 150 agency, and the division, in collaboration with the statewide  
 151 steering councils, shall develop purchasing guidelines that may  
 152 be adjusted with approval to meet the needs of each district and  
 153 subdistrict.

154 (e) Participant roles and responsibilities.--Participants  
 155 shall be allowed to choose the providers of services, as well as  
 156 when and how the services are provided. The roles and  
 157 responsibilities of a participant include, but are not limited  
 158 to, the following:

159 1. Communicating needs, preferences, and expectations  
 160 about services being purchased.

161 2. Ending the services of an unsatisfactory provider.

162 3. Providing the fiscal agent with all information  
 163 necessary for provider payments.

164 (f) Department roles and responsibilities.--The roles and  
 165 responsibilities of the department set forth in this section  
 166 include, but are not limited to, the following:

167 1. Adhering to the original intent of the pilot project  
 168 created pursuant to chapter 2001-152, Laws of Florida, and  
 169 maintaining fidelity to the original model that was developed  
 170 and implemented as a result of that chapter law.

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171 2. Assessing each participant's mental health care and  
 172 vocational rehabilitation needs, helping with the service plan,  
 173 and providing ongoing support with the service plan.

174 3. Approving the fiscal intermediary. The fiscal  
 175 intermediary may not be a provider of behavioral health care  
 176 services.

177 4. Establishing the minimum qualifications for all  
 178 providers and being the final arbiter of the fitness of any  
 179 individual to be a provider.

180 5. Establishing, at the beginning of each fiscal year, the  
 181 number of available slots in the program for each district.  
 182 Based on the number of slots for each district, the department  
 183 shall contract with the fiscal intermediary on an annual prepaid  
 184 case rate that is based on the previous year's average cost to  
 185 provide department-funded mental health services, agency-funded  
 186 mental health services, and division-funded vocational  
 187 rehabilitation services. The number of slots available each  
 188 fiscal year shall be evaluated and adjusted based on consumer  
 189 demand. Participants may enroll and disenroll at any time during  
 190 the course of the fiscal year; however, the number of available  
 191 slots in the program within each district may not be changed  
 192 until the beginning of each fiscal year.

193 (g) Fiscal intermediary roles and responsibilities.--The  
 194 roles and responsibilities of the fiscal intermediary include,  
 195 but are not limited to, the following:

196 1. Providing recordkeeping and fiscal processing services.

197 2. Retaining the participant-directed care funds,  
 198 processing provider enrollment information, if any, reviewing

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199 records to ensure correctness, writing checks to providers, and  
200 maintaining district-level service staff.

201 3. Employing recovery coaches who shall provide training,  
202 technical assistance, and support to the participant. The fiscal  
203 intermediary may not provide direct services to participants  
204 beyond those provided by the recovery coaches.

205 (5) STEERING COUNCILS.--A statewide steering council shall  
206 guide the program. Local steering councils shall guide the  
207 program in each district and subdistrict. The statewide steering  
208 council and each local steering council shall be composed of at  
209 least 11 program participants and 9 family members. Only program  
210 participants and family members are eligible to serve on a  
211 statewide or local steering council. Providers of behavioral  
212 health care services are not eligible to serve on any steering  
213 council. Each local steering council shall adopt and be governed  
214 by bylaws and shall have a single seat on the statewide steering  
215 council. The department, the agency, the division, and the  
216 fiscal intermediary shall, after consultation with local  
217 advocacy groups in each district or subdistrict, establish  
218 requirements regarding the number of programs to be offered  
219 within a district or subdistrict. Although the statewide and  
220 local steering councils will not have financial management  
221 responsibility for the program, each council shall function as a  
222 stakeholder in each program in which it is involved. The  
223 department, agency, and division must consider and respond to  
224 all requests and recommendations from the local steering council  
225 in each district's or subdistrict's programs. The department has  
226 final authority on and responsibility for operation of the  
227 program.



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228 (6) FEDERAL WAIVERS; GRANTS.--

229 (a) The department shall take all necessary action to  
230 ensure state compliance with federal regulations. The  
231 department, the agency, and the division shall apply for any  
232 federal waiver or waiver amendment necessary to implement the  
233 program. At minimum, the agency, in collaboration with the  
234 department, shall seek a waiver of s. 1115 of the Social  
235 Security Act, 42 U.S.C. s. 1315; the department shall seek a  
236 Supplemental Security Administration (SSA) waiver; and the  
237 division, in collaboration with the department, shall seek a  
238 vocational rehabilitation waiver based on the fiscal principles  
239 of self-determination.

240 (b) The department may apply for and use any funds from  
241 private, state, and federal grants provided for self-directed  
242 care, voucher, and self-determination programs, including those  
243 providing substance abuse and mental health care. Such funds may  
244 only be used as specified in the grants.

245 (c) The approval of all waivers is not required for  
246 implementation and operation of the program, but the program may  
247 not provide services for which a waiver is required without  
248 getting approval for that waiver.

249 (7) FUNDS TRANSFER.--The department may transfer funds  
250 allocated to substance abuse and mental health services to the  
251 fiscal intermediary based on the average cost of service in the  
252 previous fiscal year for each district for every participant  
253 enrolled in the program. The funds the department, agency, and  
254 division transfer each year shall be a prepaid case rate based  
255 on the previous year's annual average cost to serve in each  
256 district. The funds transferred shall also be based on the

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257 number of slots in the program allocated for each district each  
 258 year.

259 (8) REVIEWS AND REPORTS.--The department, the agency, and  
 260 the division shall each, on an ongoing basis, review and assess  
 261 the implementation of the program. By January 31 of each year,  
 262 the department shall submit a written report to the chairs of  
 263 the appropriate substantive committees of the Legislature that  
 264 includes review of the program by the department, the agency,  
 265 and the division and contains recommendations for improvements  
 266 to the program. The department shall administer all three  
 267 waivers through the interagency agreements established pursuant  
 268 to paragraph (4)(a).

269 (9) RULES.--The department, the agency, and the division  
 270 are authorized to adopt and enforce rules pursuant to ss.  
 271 120.536(1) and 120.54 necessary to implement and administer this  
 272 section. The statewide steering council must review and approve  
 273 such rules prior to their being proposed for adoption.

274 394.9503 Family-directed care (FloridaFDC) pilot  
 275 program.--

276 (1) The Department of Children and Family Services shall  
 277 develop a family-directed care (FloridaFDC) pilot program in a  
 278 district selected by the department. The pilot program shall  
 279 provide mental health treatment and support services to children  
 280 who are at risk of emotional disturbance or who have an  
 281 emotional disturbance or a serious emotional disturbance. The  
 282 program shall be organized and operated in the same manner as  
 283 the self-directed care (FloridaSDC) program established under s.  
 284 394.9501. The department may use for the pilot program any funds  
 285 of the FloridaSDC program secured from grants provided for

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286 substance abuse and mental health care that are restricted to  
287 services for children.

288 (2) The target populations for the FloridaFDC program  
289 shall be children who are at risk of emotional disturbance or  
290 who have an emotional disturbance or a serious emotional  
291 disturbance. The child must be living at home with his or her  
292 family in order to participate in the pilot program.

293 (a) A child at risk of emotional disturbance is a person  
294 under 18 years of age who is currently referred for placement in  
295 a program for students with emotional handicaps in accordance  
296 with the Individuals with Disabilities Education Act.

297 (b) A child with an emotional disturbance means a child  
298 who meets one of the following criteria:

299 1. Has a diagnosis listed in the Diagnostic and  
300 Statistical Manual of the American Psychiatric Association and a  
301 Children's Global Assessment Scale score of 51-60.

302 2. Is currently classified as a student with an emotional  
303 handicap by a local school district.

304 (c) A child with a serious emotional disturbance is a  
305 person under 18 years of age who meets one of the following  
306 criteria:

307 1. Has a diagnosis of schizophrenia or other psychotic  
308 disorder, major depression, mood disorder, or personality  
309 disorder.

310 2. Has a diagnosis listed in the Diagnostic and  
311 Statistical Manual of the American Psychiatric Association and a  
312 Children's Global Assessment Scale score of 50 or below.

313 3. Is currently classified as a student with serious  
314 emotional disturbance by a local school district.

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315 4. Is currently receiving supplemental security income  
316 benefits for a psychiatric disability.

317 (3) The following children are not eligible to participate  
318 in the pilot program:

319 (a) Children who are in the custody of the Department of  
320 Children and Family Services.

321 (b) Children with a primary diagnosis of developmental  
322 disability, pervasive developmental disorder, substance abuse,  
323 communication disorder, learning disorder, or autism.

324 (4) All persons who render care to children under this  
325 section must comply with the requirements of s. 435.05. Persons  
326 shall be excluded from employment pursuant to s. 435.06. Persons  
327 excluded from employment may request an exemption from  
328 disqualification, as provided in s. 435.07. Persons not subject  
329 to certification or professional licensure may request an  
330 exemption from the Department of Children and Family Services.  
331 In considering a request for an exemption, the department shall  
332 comply with the provisions of s. 435.07. For purposes of this  
333 section, a person who has undergone screening, who is qualified  
334 for employment under this section and applicable rule, and who  
335 has not been unemployed for more than 180 days following such  
336 screening is not required to be rescreened. Such person must  
337 attest under penalty of perjury to not having been convicted of  
338 a disqualifying offense since completing such screening.

339 (5) The Department of Children and Family Services may  
340 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to  
341 implement the provisions of this section.

342 (6) The Department of Children and Family Services shall  
343 submit a report concerning the progress of the pilot program to

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344 the appropriate legislative committees by December 1 of each  
345 year of the pilot program.

346 (7) This section is repealed July 1, 2008.

347 Section 2. Section 394.9084, Florida Statutes, is  
348 repealed.

349 Section 3. This act shall take effect July 1, 2004.