

CHAMBER ACTION

1 The Committee on Future of Florida's Families recommends the  
2 following:

3  
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to mental health and vocational  
8 rehabilitation services; creating part VI of chapter 394,  
9 F.S., relating to self-directed and family-directed mental  
10 health and vocational rehabilitation services; providing a  
11 popular name; providing legislative intent; providing for  
12 implementation and expansion; providing definitions;  
13 providing a program for self-directed mental health and  
14 vocational rehabilitation services for adults; providing  
15 eligibility and other program requirements; providing  
16 limitations; providing for statewide and local advisory  
17 councils; providing authority to request certain federal  
18 waivers and to request and use certain grants; providing  
19 for transfer of certain funds; providing for ongoing  
20 review and reports; providing rulemaking and overall  
21 authority; providing for a pilot program for family-  
22 directed mental health treatment and support services for  
23 certain children based on the self-directed care program

HB 727

2004  
CS

24 for adults; providing eligibility and other pilot program  
 25 requirements; providing background screening requirements;  
 26 providing rulemaking authority; providing for annual  
 27 reports; providing for future repeal of the pilot program;  
 28 repealing s. 394.9084, F.S., relating to the pilot project  
 29 for client-directed and choice-based adult mental health  
 30 services; providing an effective date.

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

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34 Section 1. Part VI of chapter 394, Florida Statutes,  
 35 consisting of sections 394.9501 and 394.9503, is created to  
 36 read:

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PART VI

38

SELF-DIRECTED AND FAMILY-DIRECTED MENTAL HEALTH

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AND VOCATIONAL REHABILITATION SERVICES

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394.9501 Self-directed mental health and vocational

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rehabilitation services.--

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(1) POPULAR NAME.--This section may be cited by the

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popular name the "Florida Self-Directed Care (FloridaSDC) Act."

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(2) LEGISLATIVE INTENT.--The Legislature finds that the

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experience, courage, and philosophy of the advocates who helped

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to initiate the self-directed care pilot for adults with

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psychiatric disabilities in Northeast Florida has created a new

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modality of care, has increased personal responsibility, and has

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empowered individuals. The Legislature finds that many adults

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with psychiatric disabilities are able to choose the providers

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and services that best help them to achieve recovery from mental

52 illness. It is the intent of the Legislature to provide adults  
 53 with a mental illness and children with or at risk for emotional  
 54 disturbances and their families the opportunity to exercise  
 55 choice and control in managing their mental health recovery by  
 56 offering a program of self-directed care with a wide range of  
 57 choices in and control over the purchased mental health care and  
 58 vocational rehabilitation services they access. The Legislature  
 59 finds that some families of children with or at risk for  
 60 emotional disturbances are able to choose the providers and  
 61 services best able to assist them in recovery. The Legislature  
 62 intends to test the self-directed modality for these families in  
 63 a pilot project.

64 (3) IMPLEMENTATION AND EXPANSION.--The department shall  
 65 expand this program as resources become available. The  
 66 administrative costs for sites added after July 1, 2004, shall  
 67 not be paid from funds appropriated for direct client services.

68 (4) DEFINITIONS.--As used in this section, the term:

69 (a) "Adult with a mental illness" means a person who is  
 70 age 18 or older and who has a diagnosis or diagnostic impression  
 71 of an Axis I or Axis II mental disorder.

72 (b) "Agency" means the Agency for Health Care  
 73 Administration.

74 (c) "Budget allowance" means the amount of funds made  
 75 available to the managing entity on behalf of a participant to  
 76 purchase needed mental health treatment, rehabilitation and  
 77 enrichment, and vocational rehabilitation services, based on the  
 78 results of an assessment of a participant's needs and goals.

79        (d) "Department" means the Department of Children and  
80 Family Services.

81        (e) "Division" means the Division of Vocational  
82 Rehabilitation of the Department of Education.

83        (f) "Freedom account" means an account in which a  
84 participant who receives supplemental security income (SSI) or  
85 social security disability income (SSDI) is permitted to save  
86 funds to assist in achieving independence by reaching  
87 educational and vocational goals.

88        (g) "Managing entity" means the single organization  
89 approved by the department to provide fiscal intermediary  
90 services and administrative support.

91        (h) "Participant" means a person who has chosen to  
92 participate in the program, who has met the enrollment  
93 requirements, and who has received a budget allowance.

94        (i) "Provider" means a person or organization licensed or  
95 otherwise permitted to render services eligible for  
96 reimbursement under this program for which the participant is  
97 not the employer of record.

98        (j) "Quality advocate" means a mental health professional  
99 who is licensed or eligible for licensure pursuant to chapter  
100 490 or chapter 491 who manages the delivery of direct services  
101 to participants.

102        (k) "Recovery coach" means an individual who provides  
103 technical assistance to participants in meeting their  
104 responsibilities under this section.

105        (l) "Self-determination" means a fiscal mechanism that  
106 gives the individual an opportunity to choose the providers and

107 services necessary for recovery from a mental illness or an  
 108 emotional disturbance.

109 (5) SELF-DIRECTED CARE.--

110 (a) Program established.--The department shall establish  
 111 the Florida self-directed care (FloridaSDC) program for adults,  
 112 which shall be based on the principles of participant choice and  
 113 control. The department shall establish interagency cooperative  
 114 agreements and work with the agency, the division, and the  
 115 Social Security Administration to implement and administer the  
 116 FloridaSDC program. The FloridaSDC program shall give enrolled  
 117 persons the opportunity to choose the providers of services and  
 118 to direct the delivery of services to best meet their mental  
 119 health care and vocational rehabilitation needs. The department  
 120 shall operate the direct-services portion of the FloridaSDC  
 121 program within the funds appropriated by the Legislature and  
 122 other funds obtained through the agency, division, and  
 123 department. The FloridaSDC program shall consist of four  
 124 subcomponents. A participant must participate in at least one  
 125 and may participate in any of the following subcomponents for  
 126 which they are eligible:

127 1. Department mental health services.--This subcomponent  
 128 provides a budget allowance that includes community mental  
 129 health outpatient, community support, and case management  
 130 services. This budget allowance excludes Florida Assertive  
 131 Community Treatment (FACT) services for adults; residential  
 132 services; and emergency stabilization services, including crisis  
 133 stabilization units, short-term residential treatment, and  
 134 inpatient services. The participant must be eligible as provided

HB 727

2004  
CS

135 in the waiver of s. 1115 of the Social Security Act, 42 U.S.C.  
136 s. 1315.

137 2. Agency mental health services.--This subcomponent  
138 includes in the budget allowance Medicaid community mental  
139 health services and mental health targeted case management  
140 services.

141 3. Vocational rehabilitation.--This subcomponent includes  
142 funds available for an eligible participant as provided by the  
143 Rehabilitation Act of 1973, as amended.

144 4. Social Security Administration.--This subcomponent  
145 includes funds from any social security income program.

146 (b) Eligibility and enrollment.--To be eligible for  
147 enrollment in the FloridaSDC program, a person must be an adult  
148 with a severe and persistent mental illness who:

149 1.a. Receives supplemental security income (SSI), social  
150 security disability income (SSDI), disabled veterans income, or  
151 any other type of disability income due to psychiatric  
152 disability;

153 b. Receives social security income (SSI) for reasons other  
154 than psychiatric disability; or

155 c. Does not receive disability income due to psychiatric  
156 disability but has an application in process or has received  
157 such income within the last 5 years.

158 2. Is legally competent to direct his or her own affairs.

159 3. Is not enrolled in Florida Assertive Community  
160 Treatment (FACT) services.

161 4. Lives in the department's district in which the program  
162 he or she participates in is located.

163           5. Applies for Medicaid and other income-support programs  
 164 for which he or she may qualify.

165           (c) Participation.--Participation in the FloridaSDC  
 166 program is voluntary and participants may disenroll at any time.  
 167 Agency and department services shall be available on the first  
 168 day of the month after a person disenrolls.

169           (d) Budget allowances.--Participants enrolled in the  
 170 FloridaSDC program shall be given a monthly budget allowance  
 171 based on the results of their assessed needs and goals and the  
 172 financial resources of the program. Budget allowances shall be  
 173 managed on behalf of participants by the managing entity as the  
 174 fiscal intermediary. The department, in collaboration with the  
 175 statewide advisory council, shall develop purchasing guidelines,  
 176 approved by the agency and the division, to assist participants  
 177 in using the budget allowance to purchase needed, cost-effective  
 178 services. The department shall determine the total amount of  
 179 budget allowances available for each site by calculating the  
 180 average cost to serve eligible participants during the previous  
 181 fiscal year. Individual budget allowances may vary in accordance  
 182 with the participants' approved recovery plans. Funding for  
 183 budget allowances shall be provided through department funding,  
 184 agency funds made available through a waiver of s. 1115 of the  
 185 Social Security Act, 42 U.S.C. s. 1315, and division funds.

186           (e) Services.--The managing entity for the FloridaSDC  
 187 program shall use budget allowances to pay for community-based  
 188 services that meet the participant's mental health care and  
 189 vocational rehabilitation needs based on the individual's  
 190 recovery plan goals and that are a cost-efficient use of such

191 funds. Such funds shall be considered the payer of last resort  
 192 and must be coordinated with any other benefits for which the  
 193 participant is eligible.

194 (f) Participant roles and responsibilities.--Participants  
 195 in the FloridaSDC program shall choose the providers of  
 196 services, as well as when and how the services are provided. The  
 197 roles and responsibilities of participants include, but are not  
 198 limited to, the following:

- 199 1. Communicating needs, preferences, and expectations  
 200 about services being purchased.
- 201 2. Ending the services of an unsatisfactory provider.
- 202 3. Providing the managing entity with all information  
 203 necessary for provider payments.

204 (g) Department roles and responsibilities.--The roles and  
 205 responsibilities of the department under the FloridaSDC program  
 206 include, but are not limited to, the following:

- 207 1. Establishing standards for approval of the managing  
 208 entity. The managing entity may not be a provider of behavioral  
 209 health care services or be a managed care organization.
- 210 2. Establishing, in consultation with the agency and the  
 211 division, the minimum qualifications for all providers and being  
 212 the final arbiter of the fitness of any individual or  
 213 organization to be a provider.
- 214 3. Establishing, at the beginning of each fiscal year, the  
 215 number of available openings in the program for each district.

216 (h) Managing entity roles and responsibilities.--



217        1. The roles and responsibilities of the managing entity  
 218 under the FloridaSDC program include, but are not limited to,  
 219 the following:

220        a. Providing recordkeeping and fiscal processing services  
 221 and providing for an audit by an independent certified public  
 222 accountant annually.

223        b. Retaining the participant-directed care funds in  
 224 distinct categories by program subcomponent, processing provider  
 225 enrollment information, if any, reviewing records to ensure  
 226 correctness, making payments to providers for services, ensuring  
 227 timely account activity and balance reporting to participants  
 228 and FloridaSDC program staff, and maintaining district-level  
 229 FloridaSDC service staff.

230        c. Contracting recovery coaches who shall provide  
 231 training, technical assistance, and support to participants. The  
 232 managing entity may not provide direct services to participants  
 233 beyond those provided by the recovery coaches and quality  
 234 advocates.

235        d. Establishing a provider network.

236        e. Providing controls to prevent overspending of budget  
 237 allowances and separate accounting for each program  
 238 subcomponent, and ensuring that funds expended meet all federal  
 239 requirements and purchasing guidelines established by the  
 240 department.

241        f. Maintaining each participant's freedom account under s.  
 242 1110(b) of the Social Security Act.

243 g. Assessing each participant's mental health care and  
 244 vocational rehabilitation needs, helping with the recovery plan,  
 245 and providing ongoing support with the recovery plan.

246 h. Expediting linkages for FloridaSDC participants to  
 247 other mental health services not available through the program.

248 i. Educating each participant about the use of advanced  
 249 medical and psychiatric directives.

250 2. Employees, board members, or owners of the managing  
 251 entity may not serve on boards of mental health care providers  
 252 or any other entity that would result in a conflict of interest.

253 (6) LIMITATIONS.--Participants enrolled in the agency  
 254 mental health services subcomponent are excluded from enrollment  
 255 in any program that prepays Medicaid community mental health or  
 256 mental health targeted case management benefits and may not  
 257 access Medicaid reimbursed mental health benefits under a fee-  
 258 for-service program. The vocational rehabilitation subcomponent  
 259 is contingent upon federal legislation allowing for a  
 260 demonstration program that will permit vocational rehabilitation  
 261 funds to flow through the managing entity. Participation in the  
 262 Social Security Administration subcomponent is contingent upon  
 263 federal approval of a demonstration project authorized by a  
 264 waiver.

265 (7) ADVISORY COUNCILS.--Local advisory councils shall  
 266 guide the FloridaSDC program in each participating district.  
 267 Each local advisory council shall adhere to the intent of the  
 268 FloridaSDC program to provide choice and control to  
 269 participants. At least 51 percent of the members of the local  
 270 advisory councils shall be participants in the FloridaSDC

HB 727

2004  
CS

271 program. A statewide advisory council of at least five and no  
272 more than nine members shall guide the FloridaSDC program. The  
273 statewide advisory council shall be comprised of local advisory  
274 council members. At least 51 percent of the members of the  
275 statewide advisory council shall be participants in the  
276 FloridaSDC program. The remaining council memberships shall be  
277 comprised of adult family members of individuals who have been  
278 diagnosed with a psychiatric disability. Providers of behavioral  
279 health care services, or their staff, owners, or board members,  
280 are not eligible to serve on any advisory council. Members of  
281 local and statewide advisory councils shall serve without  
282 compensation but are entitled to reimbursement for travel and  
283 per diem expenses pursuant to s. 112.061. The department shall  
284 develop policies and rules regarding appointment, operation, and  
285 terms of memberships for both the state and local advisory  
286 councils. The department shall consider requests and  
287 recommendations from the statewide advisory council for  
288 improvements to the FloridaSDC program.

289 (8) FEDERAL WAIVERS; GRANTS.--

290 (a) The department shall take all necessary action to  
291 ensure state compliance with federal regulations. The agency, in  
292 collaboration with the department, shall seek a waiver of s.  
293 1115 of the Social Security Act, 42 U.S.C. s. 1315; the  
294 department shall expeditiously seek any available Supplemental  
295 Security Administration (SSA) waivers under s. 1110(b) of the  
296 Social Security Act; and the division, in collaboration with the  
297 department, shall seek federal approval to participate in the  
298 FloridaSDC program.

299       (b) The department may apply for and use any funds from  
 300 private, state, and federal grants provided for self-directed  
 301 care, voucher, and self-determination programs, including those  
 302 providing substance abuse and mental health care.

303       (c) The FloridaSDC program may operate while awaiting  
 304 approval of federal waivers, but the program may not provide  
 305 services for which a waiver is required without first obtaining  
 306 approval for that waiver.

307       (9) FUNDS TRANSFER.--The department, the agency, and the  
 308 division may transfer funds as identified in paragraph (5)(a) to  
 309 the managing entity.

310       (10) REVIEWS AND REPORTS.--The department, the agency, and  
 311 the division shall each, on an ongoing basis, review and assess  
 312 the implementation of the FloridaSDC program. The department  
 313 shall implement an evaluation of the program through June 2006.  
 314 If the agency obtains a federal waiver, the evaluation shall be  
 315 used to demonstrate effectiveness. The evaluation is considered  
 316 part of administrative funds and cannot be paid for by service  
 317 dollars. Beginning January 31, 2005, the department shall  
 318 biannually submit a written report to the chairs of the  
 319 appropriate substantive committees of the Legislature that  
 320 includes review of the FloridaSDC program by the department, the  
 321 agency, and the division and that contains recommendations for  
 322 improvements to the program.

323       (11) RULES.--The department, the agency, and the division  
 324 shall have rulemaking authority to implement the provisions of  
 325 this section. These rules shall be for the purpose of enhancing  
 326 choice in and control over the purchased mental health and

HB 727

2004  
CS

327 vocational rehabilitative services accessed by FloridaSDC  
 328 participants. The statewide advisory council and other  
 329 interested stakeholders may participate in the development and  
 330 review of such rules prior to their adoption.

331 (12) AUTHORITY.--The department has final authority on and  
 332 responsibility for operation of the FloridaSDC program.

333 394.9503 Family-directed care (FloridaFDC) pilot  
 334 program.--

335 (1) The Department of Children and Family Services shall  
 336 develop a family-directed care (FloridaFDC) pilot program in a  
 337 district selected by the department. The FloridaFDC pilot  
 338 program shall provide mental health treatment and support  
 339 services for children who are at risk of emotional disturbance  
 340 or who have an emotional disturbance or a serious emotional  
 341 disturbance. The FloridaFDC pilot program shall be organized and  
 342 operated in the same manner and intent as the self-directed care  
 343 (FloridaSDC) program established under s. 394.9501. The  
 344 department may use for the FloridaFDC pilot program any funds of  
 345 the FloridaSDC program secured from grants provided for  
 346 substance abuse and mental health services that are designated  
 347 for services to children.

348 (2) Participants in the FloridaFDC pilot program shall be  
 349 children who are at risk of emotional disturbance or who have an  
 350 emotional disturbance or a serious emotional disturbance. The  
 351 child must be living at home with his or her family or legal  
 352 guardian in order to participate in the FloridaFDC pilot  
 353 program.

354 (a) A child at risk of emotional disturbance is a person  
 355 under 18 years of age who is currently referred for mental  
 356 health treatment in a program for students with emotional  
 357 disabilities in accordance with the Individuals with  
 358 Disabilities Education Act and for whom there are strong  
 359 clinical indicators that in the near future such child will  
 360 require treatment and care from the public mental health care  
 361 system.

362 (b) A child with an emotional disturbance is a person  
 363 under 18 years of age who meets one of the following criteria:

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

367 2. Is currently classified as a student with an emotional  
 368 disturbance by a local school district.

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

372 1. Has a diagnosis of schizophrenia or other psychotic  
 373 disorder, major depression, mood disorder, or personality  
 374 disorder.

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

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

380 4. Is currently receiving supplemental security income  
 381 (SSI) benefits for a psychiatric disability.

HB 727

2004  
CS

382       (3) The following children are not eligible to participate  
383 in the FloridaFDC pilot program:

384       (a) Children who are in the custody of the Department of  
385 Children and Family Services.

386       (b) Children with a primary diagnosis of developmental  
387 disability, pervasive developmental disorder, substance abuse,  
388 communication disorder, learning disorder, or autism.

389       (4) All persons who render care to children under this  
390 section must comply with the requirements of chapter 435. For  
391 purposes of this section, a person who has undergone screening,  
392 who is qualified for employment under this section and  
393 applicable rules, and who has not been unemployed for more than  
394 180 days following such screening is not required to be  
395 rescreened. Such person must attest under penalty of perjury to  
396 not having been convicted of a disqualifying offense since  
397 completing such screening.

398       (5) The Department of Children and Family Services, the  
399 Agency for Health Care Administration, and the Division of  
400 Vocational Rehabilitation of the Department of Education shall  
401 have rulemaking authority to implement the provisions of this  
402 section. These rules shall be for the purpose of enhancing  
403 choice in and control over the purchased mental health and  
404 vocational rehabilitative services received by FloridaFDC pilot  
405 program participants. The statewide advisory council created  
406 under s. 394.9501 and other interested stakeholders may  
407 participate in the development and review of such rules prior to  
408 their adoption.

HB 727

2004  
CS

409        (6) The Department of Children and Family Services shall  
410 submit a report concerning the progress of the FloridaFDC pilot  
411 program to the appropriate legislative committees by December 1  
412 of each year of the pilot program.

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

414        Section 2. Section 394.9084, Florida Statutes, is  
415 repealed.

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