

1 A bill to be entitled

2 An act relating to mental health and vocational
3 rehabilitation services; creating part VI of chapter 394,
4 F.S., relating to self-directed and family-directed mental
5 health and vocational rehabilitation services; providing a
6 popular name; providing legislative intent; providing for
7 implementation and expansion; providing definitions;
8 providing a program for self-directed mental health and
9 vocational rehabilitation services for adults; providing
10 eligibility and other program requirements; providing
11 limitations; providing for statewide and local advisory
12 councils; providing authority to request certain federal
13 waivers and to request and use certain grants; providing
14 for transfer of certain funds; providing for ongoing
15 review and reports; providing rulemaking and overall
16 authority; providing for a pilot program for family-
17 directed mental health treatment and support services for
18 certain children based on the self-directed care program
19 for adults; providing eligibility and other pilot program
20 requirements; providing background screening requirements;
21 providing rulemaking authority; providing for annual
22 reports; providing for future repeal of the pilot program;
23 repealing s. 394.9084, F.S., relating to the pilot project
24 for client-directed and choice-based adult mental health
25 services; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

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

32 PART VI

33 SELF-DIRECTED AND FAMILY-DIRECTED MENTAL HEALTH

34 AND VOCATIONAL REHABILITATION SERVICES

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

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

39 (2) LEGISLATIVE INTENT.--The Legislature finds that the
 40 experience, courage, and philosophy of the advocates who helped
 41 to initiate the self-directed care pilot for adults with
 42 psychiatric disabilities in Northeast Florida has created a new
 43 modality of care, has increased personal responsibility, and has
 44 empowered individuals. The Legislature finds that many adults
 45 with psychiatric disabilities are able to choose the providers
 46 and services that best help them to achieve recovery from mental
 47 illness. It is the intent of the Legislature to provide adults
 48 with a mental illness and children with or at risk for emotional
 49 disturbances and their families the opportunity to exercise
 50 choice and control in managing their mental health recovery by
 51 offering a program of self-directed care with a wide range of
 52 choices in and control over the purchased mental health care and
 53 vocational rehabilitation services they access. The Legislature
 54 finds that some families of children with or at risk for
 55 emotional disturbances are able to choose the providers and
 56 services best able to assist them in recovery. The Legislature

57 | intends to test the self-directed modality for these families in
58 | a pilot project.

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

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

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

67 | (b) "Agency" means the Agency for Health Care
68 | Administration.

69 | (c) "Budget allowance" means the amount of funds made
70 | available to the managing entity on behalf of a participant to
71 | purchase needed mental health treatment, rehabilitation and
72 | enrichment, and vocational rehabilitation services, based on the
73 | results of an assessment of a participant's needs and goals.

74 | (d) "Department" means the Department of Children and
75 | Family Services.

76 | (e) "Division" means the Division of Vocational
77 | Rehabilitation of the Department of Education.

78 | (f) "Freedom account" means an account in which a
79 | participant who receives supplemental security income (SSI) or
80 | social security disability income (SSDI) is permitted to save
81 | funds to assist in achieving independence by reaching
82 | educational and vocational goals.

83 (g) "Managing entity" means the single organization
 84 approved by the department to provide fiscal intermediary
 85 services and administrative support.

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

89 (i) "Provider" means a person or organization licensed or
 90 otherwise permitted to render services eligible for
 91 reimbursement under this program for which the participant is
 92 not the employer of record.

93 (j) "Quality advocate" means a mental health professional
 94 who is licensed or eligible for licensure pursuant to chapter
 95 490 or chapter 491 who manages the delivery of direct services
 96 to participants.

97 (k) "Recovery coach" means an individual who provides
 98 technical assistance to participants in meeting their
 99 responsibilities under this section.

100 (l) "Self-determination" means a fiscal mechanism that
 101 gives the individual an opportunity to choose the providers and
 102 services necessary for recovery from a mental illness or an
 103 emotional disturbance.

104 (5) SELF-DIRECTED CARE.--

105 (a) Program established.--The department shall establish
 106 the Florida self-directed care (FloridaSDC) program for adults,
 107 which shall be based on the principles of participant choice and
 108 control. The department shall establish interagency cooperative
 109 agreements and work with the agency, the division, and the
 110 Social Security Administration to implement and administer the

111 FloridaSDC program. The FloridaSDC program shall give enrolled
112 persons the opportunity to choose the providers of services and
113 to direct the delivery of services to best meet their mental
114 health care and vocational rehabilitation needs. The department
115 shall operate the direct-services portion of the FloridaSDC
116 program within the funds appropriated by the Legislature and
117 other funds obtained through the agency, division, and
118 department. The FloridaSDC program shall consist of four
119 subcomponents. A participant must participate in at least one
120 and may participate in any of the following subcomponents for
121 which they are eligible:

122 1. Department mental health services.--This subcomponent
123 provides a budget allowance that includes community mental
124 health outpatient, community support, and case management
125 services. This budget allowance excludes Florida Assertive
126 Community Treatment (FACT) services for adults; residential
127 services; and emergency stabilization services, including crisis
128 stabilization units, short-term residential treatment, and
129 inpatient services. The participant must be eligible as provided
130 in the waiver of s. 1115 of the Social Security Act, 42 U.S.C.
131 s. 1315.

132 2. Agency mental health services.--This subcomponent
133 includes in the budget allowance Medicaid community mental
134 health services and mental health targeted case management
135 services.

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

139 4. Social Security Administration.--This subcomponent
 140 includes funds from any social security income program.
 141 (b) Eligibility and enrollment.--To be eligible for
 142 enrollment in the FloridaSDC program, a person must be an adult
 143 with a severe and persistent mental illness who:
 144 1.a. Receives supplemental security income (SSI), social
 145 security disability income (SSDI), disabled veterans income, or
 146 any other type of disability income due to psychiatric
 147 disability;
 148 b. Receives social security income (SSI) for reasons other
 149 than psychiatric disability; or
 150 c. Does not receive disability income due to psychiatric
 151 disability but has an application in process or has received
 152 such income within the last 5 years.
 153 2. Is legally competent to direct his or her own affairs.
 154 3. Is not enrolled in Florida Assertive Community
 155 Treatment (FACT) services.
 156 4. Lives in the department's district in which the program
 157 he or she participates in is located.
 158 5. Applies for Medicaid and other income-support programs
 159 for which he or she may qualify.
 160 (c) Participation.--Participation in the FloridaSDC
 161 program is voluntary and participants may disenroll at any time.
 162 Agency and department services shall be available on the first
 163 day of the month after a person disenrolls.
 164 (d) Budget allowances.--Participants enrolled in the
 165 FloridaSDC program shall be given a monthly budget allowance
 166 based on the results of their assessed needs and goals and the

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

181 (e) Services.--The managing entity for the FloridaSDC
182 program shall use budget allowances to pay for community-based
183 services that meet the participant's mental health care and
184 vocational rehabilitation needs based on the individual's
185 recovery plan goals and that are a cost-efficient use of such
186 funds. Such funds shall be considered the payer of last resort
187 and must be coordinated with any other benefits for which the
188 participant is eligible.

189 (f) Participant roles and responsibilities.--Participants
190 in the FloridaSDC program shall choose the providers of
191 services, as well as when and how the services are provided. The
192 roles and responsibilities of participants include, but are not
193 limited to, the following:

194 1. Communicating needs, preferences, and expectations
 195 about services being purchased.

196 2. Ending the services of an unsatisfactory provider.

197 3. Providing the managing entity with all information
 198 necessary for provider payments.

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

202 1. Establishing standards for approval of the managing
 203 entity. The managing entity may not be a provider of behavioral
 204 health care services or be a managed care organization.

205 2. Establishing, in consultation with the agency and the
 206 division, the minimum qualifications for all providers and being
 207 the final arbiter of the fitness of any individual or
 208 organization to be a provider.

209 3. Establishing, at the beginning of each fiscal year, the
 210 number of available openings in the program for each district.

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

212 1. The roles and responsibilities of the managing entity
 213 under the FloridaSDC program include, but are not limited to,
 214 the following:

215 a. Providing recordkeeping and fiscal processing services
 216 and providing for an audit by an independent certified public
 217 accountant annually.

218 b. Retaining the participant-directed care funds in
 219 distinct categories by program subcomponent, processing provider
 220 enrollment information, if any, reviewing records to ensure
 221 correctness, making payments to providers for services, ensuring

222 timely account activity and balance reporting to participants
223 and FloridaSDC program staff, and maintaining district-level
224 FloridaSDC service staff.

225 c. Contracting recovery coaches who shall provide
226 training, technical assistance, and support to participants. The
227 managing entity may not provide direct services to participants
228 beyond those provided by the recovery coaches and quality
229 advocates.

230 d. Establishing a provider network.

231 e. Providing controls to prevent overspending of budget
232 allowances and separate accounting for each program
233 subcomponent, and ensuring that funds expended meet all federal
234 requirements and purchasing guidelines established by the
235 department.

236 f. Maintaining each participant's freedom account under s.
237 1110(b) of the Social Security Act.

238 g. Assessing each participant's mental health care and
239 vocational rehabilitation needs, helping with the recovery plan,
240 and providing ongoing support with the recovery plan.

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

243 i. Educating each participant about the use of advanced
244 medical and psychiatric directives.

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

248 (6) LIMITATIONS.--Participants enrolled in the agency
249 mental health services subcomponent are excluded from enrollment

250 | in any program that prepays Medicaid community mental health or
251 | mental health targeted case management benefits and may not
252 | access Medicaid reimbursed mental health benefits under a fee-
253 | for-service program. The vocational rehabilitation subcomponent
254 | is contingent upon federal legislation allowing for a
255 | demonstration program that will permit vocational rehabilitation
256 | funds to flow through the managing entity. Participation in the
257 | Social Security Administration subcomponent is contingent upon
258 | federal approval of a demonstration project authorized by a
259 | waiver.

260 | (7) ADVISORY COUNCILS.--Local advisory councils shall
261 | guide the FloridaSDC program in each participating district.
262 | Each local advisory council shall adhere to the intent of the
263 | FloridaSDC program to provide choice and control to
264 | participants. At least 51 percent of the members of the local
265 | advisory councils shall be participants in the FloridaSDC
266 | program. A statewide advisory council of at least five and no
267 | more than nine members shall guide the FloridaSDC program. The
268 | statewide advisory council shall be comprised of local advisory
269 | council members. At least 51 percent of the members of the
270 | statewide advisory council shall be participants in the
271 | FloridaSDC program. The remaining council memberships shall be
272 | comprised of adult family members of individuals who have been
273 | diagnosed with a psychiatric disability. Providers of behavioral
274 | health care services, or their staff, owners, or board members,
275 | are not eligible to serve on any advisory council. Members of
276 | local and statewide advisory councils shall serve without
277 | compensation but are entitled to reimbursement for travel and

278 per diem expenses pursuant to s. 112.061. The department shall
279 develop policies and rules regarding appointment, operation, and
280 terms of memberships for both the state and local advisory
281 councils. The department shall consider requests and
282 recommendations from the statewide advisory council for
283 improvements to the FloridaSDC program.

284 (8) FEDERAL WAIVERS; GRANTS.--

285 (a) The department shall take all necessary action to
286 ensure state compliance with federal regulations. The agency, in
287 collaboration with the department, shall seek a waiver of s.
288 1115 of the Social Security Act, 42 U.S.C. s. 1315; the
289 department shall expeditiously seek any available Supplemental
290 Security Administration (SSA) waivers under s. 1110(b) of the
291 Social Security Act; and the division, in collaboration with the
292 department, shall seek federal approval to participate in the
293 FloridaSDC program.

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

298 (c) The FloridaSDC program may operate while awaiting
299 approval of federal waivers, but the program may not provide
300 services for which a waiver is required without first obtaining
301 approval for that waiver.

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

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

318 (11) RULES.--The department, the agency, and the division
 319 shall have rulemaking authority to implement the provisions of
 320 this section. These rules shall be for the purpose of enhancing
 321 choice in and control over the purchased mental health and
 322 vocational rehabilitative services accessed by FloridaSDC
 323 participants. The statewide advisory council and other
 324 interested stakeholders may participate in the development and
 325 review of such rules prior to their adoption.

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

328 394.9503 Family-directed care (FloridaFDC) pilot
 329 program.--

330 (1) The Department of Children and Family Services shall
 331 develop a family-directed care (FloridaFDC) pilot program in a
 332 district selected by the department. The FloridaFDC pilot

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

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

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

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

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

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

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

367 1. Has a diagnosis of schizophrenia or other psychotic
368 disorder, major depression, mood disorder, or personality
369 disorder.

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

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

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

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

379 (a) Children who are in the custody of the Department of
380 Children and Family Services.

381 (b) Children with a primary diagnosis of developmental
382 disability, pervasive developmental disorder, substance abuse,
383 communication disorder, learning disorder, or autism.

384 (4) All persons who render care to children under this
385 section must comply with the requirements of chapter 435. For
386 purposes of this section, a person who has undergone screening,

387 who is qualified for employment under this section and
 388 applicable rules, and who has not been unemployed for more than
 389 180 days following such screening is not required to be
 390 rescreened. Such person must attest under penalty of perjury to
 391 not having been convicted of a disqualifying offense since
 392 completing such screening.

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

404 (6) The Department of Children and Family Services shall
 405 submit a report concerning the progress of the FloridaFDC pilot
 406 program to the appropriate legislative committees by December 1
 407 of each year of the pilot program.

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

409 Section 2. Section 394.9084, Florida Statutes, is
 410 repealed.

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