

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – Entities qualifying for a grant under the Housing Retention Program would have to develop, implement, and annually update a housing retention assistance plan.

Safeguard individual liberty – The bill may increase the ability for individuals and families at risk of becoming homeless to remain in their homes.

Empower families – The bill may enable individuals and families to remain in their homes, which could serve to strengthen family units and allow children to remain with their families.

B. EFFECT OF PROPOSED CHANGES:

Background

The State Office on Homelessness within the Department of Children and Family Services (DCF or department) and Council on Homelessness were created in 2001.¹ The State Office on Homelessness coordinates state agency responses to homelessness, serves as a single point of contact on homeless issues in the state, and administers state-funded grant programs that support the activities of the 27 local homeless coalitions.

The Council on Homelessness (council) consists of 15 members representing state agencies, counties, homeless advocacy organizations, and volunteers. The council's duties include coordinating state, local, and private agencies and providers to produce a program and plan for the state's response to the needs of persons who are experiencing homelessness. The council collects and disseminates data and public information, monitors and provides technical assistance to local coalitions, develops policy and legislative proposals, and prepares an annual report and recommendations to the Legislature and the Governor. Among the council's recommendations in the 2006 report was that the current statutory definition of "homeless" in s. 420.621, Florida Statutes, be changed to incorporate the federal definition applicable to the Education for Homeless Children and Youths Program under the McKinney-Vento Homeless Assistance Act.

Definition of Homeless

The McKinney-Vento Homeless Assistance Act² was the first, and continues to be the only, major federal legislative response to homelessness. The McKinney-Vento Act originally consisted of fifteen programs providing a range of services to homeless people, including emergency shelter, transitional housing, job training, primary health care, education, and some permanent housing. The McKinney-Vento Act contains nine titles. Title I provides a definition of homelessness and Title VII authorizes the Education of Homeless Children and Youths Program. The current McKinney-Vento Act has been amended four times: in 1988, 1990, 1992 and 1994. These amendments have, for the most part, expanded the scope and strengthened the provisions of the original legislation. McKinney-Vento contains a general definition of "homeless individual":

(a) In general, the term "homeless" or "homeless individual or homeless person" includes--

(1) an individual who lacks a fixed, regular, and adequate nighttime residence;
and

¹ See Chapter 2001-98, Laws of Florida.

² See PL 100-77. The original Stewart B. McKinney Homeless Assistance Act was renamed the McKinney-Vento Homeless Assistance Act in 2000.

- (2) an individual who has a primary nighttime residence that is--
 - (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings...
- (c) ...the term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.³

The McKinney-Vento Homeless Assistance Act also contains a definition of "homeless children and youths" as part of the Education of Homeless Children and Youth Program provisions:

- (2) The term "homeless children and youths"--
 - (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and
 - (B) includes--
 - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
 - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));
 - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - (iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).⁴

This definition defines homeless children and youths for the purpose of addressing the problems that homeless children and youth face in enrolling, attending, and succeeding in school. The Education of Homeless Children and Youth Program was reauthorized in 2001 as part of the No Child Left Behind Act.

The current definition in s. 420.621, Florida Statutes, reflects the definition of "homeless" or "homeless individual or homeless person" found in McKinney-Vento.

Homeless Prevention

The majority of funding provided for homeless programs and services is directed to persons who are already homeless and is designated for building and operating emergency shelters, transitional housing, and supportive services. The Emergency Financial Assistance for Housing Program is the only state program that assists families facing eviction with one-time aid of up to \$400. The demand for this limited assistance has exhausted the approved budget of \$1.6 million in less than 6 months during both of the past two years. Effective use of the Emergency Financial Assistance for Housing Program funds has resulted in a 62.5 percent one year increase (from 4,899 to 7,882) in the number of families who are kept together in housing and off the street. The Council estimates that by avoiding homelessness the program saved an estimated \$59.8 million in emergency shelter bed costs.⁵

³ McKinney-Vento Homeless Assistance Act, 42 U.S.C. s. 11302.

⁴ McKinney-Vento Homeless Assistance Act, Education for Homeless Children and Youths, 42 U.S.C. ss. 11431 et seq.

⁵ Council on Homelessness, 2006 Report.

Although local communities are encouraged to develop plans that include a continuum of services and activities that include prevention of homelessness, there are limited resources to apply to prevention activities.

The only federal program that addresses homeless prevention is the Emergency Shelter Grants (ESG) Program, 30 percent of which can be used for assistance to prevent homelessness. The ESG program was originally established by the Homeless Housing Act of 1986, in response to the growing issue of homelessness among men, women, and children in the United States. In 1987, the ESG program was incorporated into the Stewart B. McKinney Homeless Assistance Act. The objectives of the Emergency Shelter Grants program are to increase the number and quality of emergency shelters and transitional housing facilities for individuals and families who are experiencing homelessness, to operate these facilities and provide essential social services, and to help prevent homelessness. Designed as a first step in a continuum of assistance, the ESG program strives to help emergency shelter residents meet their most immediate needs as well as aid them in their transition towards independent living. ESG serves a broad population encompassing both individuals and families who are experiencing homelessness. Through homeless prevention activities, the program also serves individuals and families at risk of losing their permanent housing. It should be noted that ESG is the only HUD McKinney program that may be used to prevent homelessness. The total award to Florida for the Emergency Shelter Grant in 2006 was \$6,981,221, of which \$2,094,366 could be used for prevention by the 27 local coalitions.

The Bill

The bill amends s. 420.621, Florida Statutes, adding definitions of the terms “Council on Homelessness” and the “State Office on Homelessness”, and deleting the outdated definition of “AFDC”. The bill amends the current definition of the term “homeless” to mirror the definition of the term “homeless children and youths” contained in the Education for Homeless Children and Youths Program under the McKinney-Vento Homeless Assistance Act. The department stated that the definitional change would provide a more accurate estimate of the number of homeless and as a result increase the estimates by 15 to 20 percent.

The bill also creates a Housing Retention Program that will provide grant funding to non-profit organizations or agencies, local governments, or other qualified entities, for assistance to households to keep them in stable housing and avert homelessness. The intent of the program is to support the development of a comprehensive local homeless prevention program that will authorize greater flexibility, require case management, and help households over several months rather than on a one-time basis. The program will be locally administered and will require local partnerships to address housing, employment, education, and health care needs. The program will track the households that are provided aid for at least two years to assess the effectiveness of the prevention program.

Grant funds provided through the program may be used for rent or mortgage payments, security deposits, utilities, or any major household bill that is contributing to the financial crisis. Funds may also be used to pay for case management, but such costs may not exceed ten percent of the agency’s award. Assistance provided may not exceed a maximum cost of \$6,000 per household and the program must not exceed an average cost of \$3,000 per household. Local agencies must match grant-in-aid funds with at least 25 percent cash and 25 percent in-kind services.

The Housing Retention Program’s performance goal is that at least 85 percent of those households assisted will remain in their homes for at least two years following the last date on which assistance was received. Local agencies will be responsible for immediately referring a household to temporary housing that will keep all members together if the household is unable to keep their home after receiving assistance.

C. SECTION DIRECTORY:

Section 1. Amends s. 409.621, relating to definitions.

Section 2. Creates S. 420.628, relating to a housing retention program.

Section 3. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill does not include an appropriation for the Housing Retention Program. The department indicates that the grant program will be managed within existing staff and resources in the Office of Homelessness, but an appropriation will be required to fund the grant program. The amount of the appropriation has not been determined.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The Housing Retention Program may be administered by a unit of local government. If so, the local government could incur costs to establish and coordinate the program. Direct assistance and case management would be eligible for estate grant assistance; the local government would be responsible for a 25 percent cash match and a 25 percent in-kind match.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If a private non-profit organization applies for a grant under this program, they will be required to provide a 25 percent cash match and a 25 percent in-kind match.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

● To date, over eighty national, state, and local coalitions, including homelessness, housing, domestic violence, veterans, youth, and faith-based organizations have supported a call for the U.S. Department of Housing and Urban Development (HUD) to adopt a definition of homelessness that is more closely aligned to other federal definitions of homelessness. The current HUD definition of homelessness does not match the reality of who is homeless in communities nationwide. While this incongruity is especially true for smaller towns and rural areas, it is also true in urban areas, where many families and unaccompanied youth are excluded from services. Communities need the flexibility to address homelessness as it exists in their area; the HUD definition currently denies communities that flexibility and prevents them from meeting the needs that they are identifying.⁶ Statements in support of broadening the definition include:

● The current HUD definition of homelessness is limited to people who are on the streets or who are staying in shelters. It excludes people who are forced to live in other homeless situations, including people staying with others temporarily because they have nowhere else to go (“doubled-up”), and people staying in motels due to lack of adequate alternatives.⁷

● The statutory definition of “homeless individual” should be made more inclusive to recognize the evolution of homeless situations over the past 20 years. Alternatively, a definition of “person at imminent risk of homelessness” should be added to the statute. Either the expanded definition or the additional definition should include persons in doubled up arrangements; persons living in motels and hotels; persons exiting jails, prisons, juvenile justice systems, child welfare systems, mental health and developmental disability facilities, residential addiction treatment programs, and hospitals without an immediate living arrangement; and persons facing immediate eviction or foreclosure. If a definition of person at imminent risk of homelessness is added, these persons must be eligible for HUD McKinney-Vento funded services to the same extent as homeless individuals.⁸

● To remedy this situation, we believe that the HUD definition of homelessness should be amended to explicitly include two homeless situations (doubled-up and motels) that are included in the definition of homelessness contained in Subtitle VII-B of the McKinney-Vento Act, the Education for Homeless Children and Youth program administered by the U.S. Department of Education.⁹

● In response to the concerns raised regarding HUD’s narrow interpretation, the proposed resolution urges all federal agencies including the Department of Housing and Urban Development and the United States Interagency Council on Homelessness to include within the definition of “homeless person” those who are sharing the housing of others due to loss of housing, economic hardship, or similar reasons, and those who are

⁶ Questions and Answers About Expanding HUD’s Definition of Homelessness. National Association for the Education of Homeless Children and Youth, National Health Care for the Homeless Council, National Policy and Advocacy Council on Homelessness, and Volunteers of America. Available at www.npach.org.

⁷ Questions and Answers About Expanding HUD’s Definition of Homelessness. National Association for the Education of Homeless Children and Youth, National Health Care for the Homeless Council, National Policy and Advocacy Council on Homelessness, and Volunteers of America. Available at www.npach.org.

⁸ Statement for the Record of the National Coalition for the Homeless to the Subcommittee on Housing and Transportation Committee on Banking, Housing, and Urban Affairs United States Senate March 30, 2006 Hearing on McKinney-Vento Act Reauthorization and Consolidation of HUD’s Homeless Programs. Available at http://www.nationalhomeless.org/housing/hudstatement_06.html.

⁹ A Matter of Definition: Responding to Homelessness Among Families, Children, and Youth. Child Welfare League of America, National Association for the Education of Homeless Children and Youth, National Health Care for the Homeless Council, National Policy and Advocacy Council on Homelessness, and Volunteers of America. Available at www.npach.org.

staying in motels or camping because of the lack of adequate alternative accommodations.¹⁰

- The 2001 reauthorization of the Education of Homeless Children and Youths Program under McKinney-Vento, includes a definition of the term “homeless children and youths” for the purposes of determining who is eligible for the rights and protections the program provides.

- The proposed “Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH),” H.R. 840, reauthorizes the McKinney-Vento Homeless Assistance Programs that are administered by the U. S. Department of Housing and Urban Development (HUD). The HEARTH legislation provides greater decision making at the local level, more closely aligns the HUD definition of homelessness with other federal agency definitions (including the Department of Education), expands resources for emergency shelter and supportive services, provides a framework for greater homeless prevention activity, and allows communities the flexibility to implement a range of housing solutions. H.R. 840 was introduced in February 2007 and includes the following amended definition:

Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended by striking subsection (a) and inserting the following new subsection—

- (a) In general, the terms “homeless” or “homeless individual or homeless person” --
 - (1) mean an individual who lacks a fixed, regular, and adequate nighttime residence; and
 - (2) include --
 - (A) an individual who—
 - (i) is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
 - (ii) is living in a motel, hotel, or camping ground due to the lack of alternative adequate accommodations; or
 - (iii) is living in an emergency or transitional shelter;
 - (B) an individual who has a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
 - (C) an individual who is living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar setting, and;
 - (D) an individual living in an institution that provides a temporary residence for individuals intended to be institutionalized; and
 - (2) in subsection (c) --
 - (A) by striking “or otherwise detained” and
 - (B) by inserting after the period at the end of the following: Such term includes individuals who have been released from prison on probation or parole.

The changes to the definition of “homeless” in s. 420.621, Florida Statutes, do not appear to reflect the changes suggested by stakeholders in the homeless community.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

¹⁰ American Bar Association adopted by the House of Delegates. August 7-8, 2006. Available at www.abanet.org/leadership/2006/annual/dailyjournal/hundredeightb.doc