

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Children, Families, and Elder Affairs Committee

BILL: CS/SB 542

INTRODUCER: Children, Families & Elder Affairs Committee and Senator Margolis

SUBJECT: Forensic Mental Health

DATE: March 21, 2007      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Jameson	CF	CS/Fav
2.			CJ	
3.			HA	
4.				
5.				
6.				

**I. Summary:**

CS/SB 542 creates the Criminal Justice Mental Health Reinvestment Grant Program (Grant Program). The Grant Program is created for the purpose of providing funding to counties so that they can plan, implement or expand initiatives to address the issues of citizens who have mental illness and/or substance use disorder and who are in or at risk of entering the criminal justice system.

The bill directs the Substance Abuse and Mental Health Corporation (SAMH) to create a statewide grant review subcommittee (review committee), specifies the membership of the review committee, and makes the review committee responsible for recommending to the Department of Children and Families (DCF) which counties should be approved for grants.

The bill authorizes counties to apply for one-year planning grants or three-year implementation grants, and provides that in order to be eligible to receive a grant, a county must have a county planning committee which includes specified members.

The bill requires the review committee, in collaboration with DCF and other state agencies, to establish application criteria for awarding grant funds to eligible counties, and specifies that the criteria must require the counties to provide specified information. The bill provides that the applicant county must match the grant with resources in an amount equal to the grant total.

The bill creates a technical assistance center at the Louis de la Parte Florida Mental Health Institute and identifies the functions of the center. The bill requires SAMH and the technical assistance center to provide an annual report on certain specified issues on January 1 of each year, beginning on January 1, 2009.

The bill provides that the administrative costs of any county making application for grants may not exceed 10 percent of the total amount of the grant, and makes the number of grants awarded contingent on appropriation.

The bill establishes a Criminal Justice Mental Health Policy Council within SAMH, and specifies the membership and responsibilities of the Council.

The bill is to take effect upon becoming law.

This bill creates an unnumbered section of the Florida Statutes, and amends s. 394.655 of the Florida Statutes.

## II. Present Situation:

Persons with serious mental illnesses present unique challenges for the criminal justice system. According to experts in both the corrections and mental health fields, persons with mental illnesses are disproportionately represented in the criminal justice system. Data from the U.S. Department of Justice (DOJ) and the Florida Department of Corrections (DOC) confirms this conclusion. Although data indicates that approximately six percent of the general population in the United States have a serious mental illness,<sup>1</sup> this prevalence increases to 16 percent for inmates in U.S. jails.<sup>2, 3</sup> The Florida DOC estimates that the average daily population of Florida jails in 2005 was 57,559.<sup>4</sup> Using the DOC jail population estimate and a 16 percent prevalence rate, approximately 9,200 individuals held in Florida jails at any given time have a serious mental illness. In addition to the large number of jail inmates with mental illnesses, the number of inmates classified as “S3” (the DOC mental health classification denoting moderate impairment in adaptive functioning) in the state’s prisons has increased from approximately 2,000 in 1990 to nearly 12,000 in 2006.<sup>5</sup>

Identification and treatment of persons with serious mental illness who are involved in the criminal justice system has become a subject of intense scrutiny in Florida and across the country. The situation has reached crisis proportions amid the growing perception that jails and prisons are now “the new asylums.”<sup>6</sup> The cost of this problem to communities for law enforcement, jails, and human services is enormous. The Miami-Dade Department of Corrections estimates that it spends almost \$4 million annually for overtime pay to manage

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<sup>1</sup> Kessler, R.C., Chiu, W.T., Demler, O., Walters, E.E. Prevalence, severity, and comorbidity of twelve-month DSM-IV disorders in the National Comorbidity Survey Replication (NCS-R). *Archives of General Psychiatry*, 2005 June; 62(6):617-27.

<sup>2</sup> Ditton, P.M., *Mental Health Treatment of Inmates and Probationers*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, July 1999.

<sup>3</sup> A recent report from the Department of Justice suggests that as many as 30 percent of jail inmates have symptoms of a major depressive or psychotic disorder. (see James, D.J., Glaze, L.E., *Mental Health Problems of Prison and Jail Inmates*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Sept. 2006).

<sup>4</sup> Department of Corrections, *County Detention Facilities (2005 Annual Report)*.

<sup>5</sup> McDonough, J., Presentation to Florida Substance Abuse and Mental Health Corporation, June 8, 2006.

<sup>6</sup> Navasky, M., O’ Connor, K., “FRONTLINE: The New Asylums” originally broadcast on May 10, 2005, WGBH Educational Foundation, Boston, MA.

inmates with mental illness.<sup>7</sup> The Orange County jail reports that the average inmate identified as having a mental illness stays 51 days, compared with an average stay of 26 days for inmates.<sup>8</sup>

Compounding the problem of mental illness is the problem of co-occurring substance use disorders. Of the approximately 800,000 persons with serious mental illness who are admitted to U.S. jails annually, 72 percent also meet criteria for co-occurring substance use disorders.<sup>9</sup> In Florida, the Department of Corrections estimates that 64 percent of the total inmate prison population is identified as being in need of substance abuse treatment.<sup>10</sup> Of those, 17 percent have a co-occurring mental illness needing treatment.<sup>11</sup>

According to DCF, many individuals with mental illnesses and co-occurring substance abuse disorders become involved with the criminal justice system because they lack access to appropriate therapeutic services and medications. As a result, they become repeat offenders and are required to serve time in prison. In addition, many individuals with chronic mental illnesses are referred to state mental health treatment facilities due to a lack of local coordination of resources to address their needs. Many of these individuals can more appropriately and more cost-effectively receive community-based services to meet their needs.<sup>12</sup>

In response to the crisis at the national level, Congress passed the Mentally Ill Offender Treatment and Crime Reduction Act in 2004.<sup>13</sup> The legislation established a federal program allowing state and local government agencies to apply for planning and implementation grants to support collaborative programs to divert individuals with mental illness from the criminal and juvenile justice systems and to provide treatment for those individuals.<sup>14</sup>

In June 2006, the DCF, Department of Juvenile Justice and DOC applied for a grant pursuant to the Mentally Ill Offender Treatment and Crime Reduction Act, but the grant was not awarded.

### **III. Effect of Proposed Changes:**

This bill creates the Criminal Justice Mental Health Reinvestment Grant Program (Grant Program). The Grant Program is created for the purpose of providing funding to counties so that they can plan, implement or expand initiatives to increase public safety, avert increased spending on criminal justice and improve the accessibility and effectiveness of treatment services for citizens who have mental illness and/or substance use disorder and who are in or at risk of entering the criminal justice system.

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<sup>7</sup> Criminal Justice / Mental Health Consensus Project [www.consensusproject.org](http://www.consensusproject.org).

<sup>8</sup> *Ibid.*

<sup>9</sup> <http://www.gainscenter.samhsa.gov/html/tapa/jail%20diversion/background.asp> (last visited March 13, 2007).

<sup>10</sup> [http://www.dc.state.fl.us/pub/annual/0506/ci\\_drugsprogs.html](http://www.dc.state.fl.us/pub/annual/0506/ci_drugsprogs.html) (last visited March 14, 2007).

<sup>11</sup> *Id.*

<sup>12</sup> Department of Children and Families Staff Analysis and Economic Impact (January 31, 2007).

<sup>13</sup> 42 U.S.C.A. s. 3797aa.

<sup>14</sup> [www.bazelon.org/issues/criminalization/factsheets/s1194.pdf](http://www.bazelon.org/issues/criminalization/factsheets/s1194.pdf) (last visited March 12, 2007).

The bill directs the Substance Abuse and Mental Health Corporation (SAMH) to create a statewide justice and mental health reinvestment grant review committee (review committee), and specifies that the following members shall serve on the committee:

- Five current members or appointees of SAMH;
- One representative of DCF;
- One representative of DOC;
- One representative of the Department of Juvenile Justice;
- One representative of the Department of Elderly Affairs; and
- One representative of the State Courts Administrator.

The review committee is directed to notify DCF when a county is selected to receive a grant and authorizes DCF to transfer funds appropriated to the Grant Program to any county awarded a grant.

The bill authorizes counties to apply for one-year planning grants or three-year implementation grants, and provides that in order to be eligible to receive a grant, a county must have a county planning committee in place. Counties are authorized to use established public safety coordinating councils or another committee designated by the board of county commissioners, as well as to form consortiums and use regional committees. The following entities must be represented on the planning committee:

- The state attorney;
- The public defender;
- A circuit court judge;
- A county court judge;
- The chief correctional officer;
- The county sheriff;
- The police chief;
- The state probation circuit administrator;
- The local court administrator;
- The chairperson of the board of county commissioners;
- The director of probation or pretrial intervention;
- The director of a local substance abuse treatment program;
- The director of a community mental health treatment agency;
- A representative of DCF's substance abuse and mental health program in the area;
- A primary consumer of mental health services;
- A primary consumer of substance abuse treatment services;
- A family member of a primary consumer of community-based services;
- A representative from an area homeless program; and
- The director of a DJJ detention facility.

The planning committee is directed to prepare the county's grant application, and submit it to the review committee.

The bill requires the review committee, in collaboration with DCF and other state agencies, to establish application criteria for the grant program, and specifies that the criteria must require the counties to provide the following information:

- An analysis of current jail population, especially with respect to issues of mental illness;
- The strategies the county intends to use to serve the various subsets of the mentally ill jail population;
- The projected impact of the proposed initiative on the jail population and budget;
- The proposed strategies for preserving and enhancing the community mental health and substance abuse system; and
- The proposed strategies for continuing the programs initiated by grant funding.

The bill provides that a grant cannot supplant existing funding, and that an applicant county must match the grant with available resources equal to at least 25 percent of the grant total. Available resources may include in-kind contributions.

The bill creates a technical assistance center at the Louis de la Parte Florida Mental Health Institute, and requires SAMH and the center to submit an annual report about the grant program on January 1 of each year, beginning on January 1, 2009. The report must address the following:

- The progress made by each county grantee;
- The impact of grant-funded initiatives on meeting the needs of the target population;
- The impact of the act on jail and prison growth and expenditures; and
- The impact of the act on the availability of community-based resources for the target population; and
- How local matching funds leveraged additional funding.

The bill provides that the administrative costs of any county making application for grants may not exceed 10 percent of the total amount of the grant, and makes the number of grants awarded contingent on appropriation.

The bill adds subsection (12) to s. 394.655, F.S., establishing a Criminal Justice Mental Health Policy Council within SAMH and establishing the membership as follows:

- The chairperson of SAMH;
- The Secretary of DCF;
- The Secretary of Corrections;
- The Secretary of Health Care Administration;
- The Secretary of Juvenile Justice;
- The Secretary of Elderly Affairs; and
- The State Courts Administrator.

The bill directs the Council to align policy initiatives and assist local grantees.

The act is to take effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

**DCF Fiscal Impact**

According to DCF, the bill will require considerable added administrative responsibilities to the department’s central and district offices. DCF estimates that the appropriations consequences on the department will be \$565,862 for FY 2007-2008 and \$615,977 for FY 2008-2009 and following.

DCF summarizes the fiscal impact on the department as follows:<sup>15</sup>

- **Non-recurring/First Year Start-Up Effects:**

- Department of Children and Families -**

- Department’s Pay Grade 26 (Reinvestment Grant Coordinator)  
FTE position Start-Ups:

	<u>FY 2007-2008</u>
Furniture:	\$3,329
Computer:	<u>\$ 999</u>
Subtotal:	\$4,328

- Department’s Pay Grade 24 (Contract Manager – Reinvestment Grants)

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<sup>15</sup> Department of Children and Families Staff Analysis and Economic Impact (January 31, 2007).

FTE position Start Ups:	
	<u>FY 2007-2008</u>
Furniture:	\$3,329
Computer:	<u>\$ 999</u>
Subtotal	\$4,328

**Substance Abuse and Mental Health Corporation –**

○ Other Personal Services (OPS) Grant Coordinator*	
	<u>FY 2007-2008</u>
Furniture:	\$3,329
Computer:	<u>\$ 999</u>
Subtotal	\$4,328

\*The SAMH Corporation grant coordinator would be necessary to oversee the grant application and review process and provide staff support for the committee. The SAMH Grant Coordinator is in addition to the Department’s two proposed FTE positions.

● **Recurring or Annualized Continuation Effects:**

**Department of Children and Families –**

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
○ PG 26 FTE position	\$70,808 (9mo salary including benefits)	\$94,411 (12mo salary including benefits)
	<u>\$19,527 (travel)</u>	<u>\$ 19,527 (travel)</u>
Subtotal:	\$90,335	\$113,938
○ PG 24 FTE position	\$62,410 (9mo salary including benefits)	\$83,213 (12mo salary including benefits)
	<u>\$19,527 (travel)</u>	<u>\$ 19,527 (travel)</u>
Subtotal:	\$81,937	\$102,740
○ Technical Assistance Center**		
Subtotal:	\$250,000	\$250,000

\*\*The SAMH Corporation estimates that the Technical Assistance Center at the Florida Mental Health Institute would require at least \$250,000 initially.

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
○ Printing of Annual Report		
Subtotal:	\$5,000	\$5,000
<b>Substance Abuse and Mental Health Corporation -</b>		
○ OPS Position	\$56,079 (inc. 7.65%)	\$74,772 (inc. 7.65%)
	<u>\$19,527 (travel)</u>	<u>\$19,527 (travel)</u>

Subtotal:	\$75,606	\$94,299
○ Review Committee Travel		
Subtotal:	\$50,000	\$50,000
<b>• Appropriation Consequences:</b>		
Total:	\$565,862	\$615,977

**Local Government Fiscal Impact**

Awarding of the six-month planning grant may not supplant funding for existing programs and cannot be awarded unless the applicant county makes available resources in an amount equal to at least 25 percent of the total amount of the grant. “Available resources” may include in-kind contributions.

**Statewide Fiscal Impact**

The bill will require an appropriation from General Revenue to fund any grants that are awarded to eligible counties.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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