

**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: Criminal Justice Committee

BILL: CS/CS/SB 542

INTRODUCER: Criminal Justice Committee, Children, Families and Elder Affairs Committee, and Senator Margolis and others

SUBJECT: Forensic Mental Health

DATE: April 10, 2007

REVISED: \_\_\_\_\_

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

**I. Summary:**

The bill creates the Criminal Justice, Mental Health, and Substance Abuse 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 adults and juveniles who have mental illness and/or substance use disorders 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. Collaboration between counties is also permitted.

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. Fiscally-constrained counties may match half of the total grant.

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 section 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 led to the growing perception that jails and prisons are now “the new

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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.

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 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 and juvenile justice systems 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 advocates assert that 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, and Substance Abuse 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

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

<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).

treatment services for citizens who have mental illness and/or substance use disorder and who are in or at risk of entering the criminal or juvenile justice system.

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;
- The director of a DJJ detention facility; and
- DJJ's chief probation officer.

The planning committee is directed to prepare the county's grant application, and submit it to the review committee. If a public safety coordination council is used as the planning council, it must add members so that its membership is the same as specified above. It must also assess the availability of mental health programs in addition to the other assessments that it is required to make pursuant to s. 951.26(2), F.S.

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 and juvenile detention populations, 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 and juvenile detention population;
- The projected impact of the proposed initiative on the jail and juvenile detention 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 the grant total. Available resources may include in-kind contributions. For fiscally-constrained counties, a 50 percent match is required. Under s. 218.67, F.S., a county is a fiscally constrained county if it is entirely within a rural area of critical economic concern as designated by the Governor pursuant to s. 288.0656, F.S., or if the value of a mill would raise no more than \$5 million in revenue based on the taxable value of property. Because that definition is not restricted in use to s. 218.67, F.S., it appears that it would apply to the bill.

The bill creates a technical assistance center at the Louis de la Parte Florida Mental Health Institute. The purpose of the technical assistance center is to assist the counties in preparing grant applications and monitoring the effect of an award, to disseminate information among grantees, and to act as a clearinghouse for information and resources. SAMH and the center are required 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;
- 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 July 1, 2007, but is contingent upon a specific appropriation in the General Appropriations Act.

#### **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 estimates that there will be no direct fiscal impact on the department.<sup>15</sup> However, expenses will be incurred by the Substance Abuse and Mental Health Corporation and the Technical Assistance Center at the Florida Mental Health Institute. The fiscal impact on SAMH and the Florida Mental Health Institute is estimated as follows:

**Recurring or Annualized Continuation Effects:**

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
<b>Technical Assistance Center at Florida Mental Health Institute</b>		
3.5 Professional/Research and Technical Assistance/Consultative Staff and increased administrative capacity:	\$ 240,000	\$ 340,000*
Travel and Expenses:	\$ 10,000	\$ 10,000
Subtotal:	\$ 250,000	\$ 350,000
*Includes 2 additional positions due to anticipated expansion of county level activities		
<b>Substance Abuse and Mental Health Corporation –</b>		
Contract Position for Grant Administration:	\$ 75,000	\$ 75,000
Review Committee Travel:	\$ 4,500	\$ 4,500
Subtotal:	\$ 79,500	\$ 79,500
<b>Printing of Annual Report:</b>		\$ 5,000
<b>Total Appropriation Impact:</b>	\$ 329,500	\$ 434,500

**Local Government Fiscal Impact**

Awarding of a grant may not supplant funding for existing programs and cannot be awarded unless the applicant county makes available resources in an amount equal to the total amount of the grant, or 50 percent of the grant for fiscally constrained counties. “Available resources” may include in-kind contributions.

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<sup>15</sup> Department of Children and Families Committee Substitute Analysis (March 26, 2007).

**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.

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

None.

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