SENATE 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: SPB 7084

INTRODUCER: For Consideration by Children, Families, and Elder Affairs Committee

SUBJECT: Mental Health and Substance Abuse Services

DATE: February 12, 2007 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Goltry	Jameson		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This proposed bill authorizes the Department of Children and Family Services (DCF or "the department") in consultation with the Agency for Health Care Administration (AHCA), to establish integrated mental health crisis stabilization and addictions receiving facilities for adults. The bill also includes a committee of employees, agents, or consultants of the department within the definition of a medical review committee for the purpose of reviewing activities of health care providers and deletes a requirement that providers must have a contract with DCF to receive reimbursement for certain Medicaid services.

This bill substantially amends ss. 409.906 and 766.101, F.S., and creates s. 394.4996, F.S.

II. Present Situation:

Chapter 394, Part I, F.S., describes the criteria and process for the involuntary examination and treatment of a person who is believed to have a mental illness.[1] The statute authorizes law enforcement, certain mental health clinical professionals, or the court to require that an individual be involuntarily detained for evaluation for a period up to 72 hours. In addition to procedural requirements for involuntary examination and voluntary and involuntary treatment, this part provides a framework for the public mental health service delivery system. The "front door" to that system is the public receiving facility. Receiving facilities admit persons for involuntary examination and are defined in the statute as "any public or private facility designated by the department to receive and hold involuntary patients under emergency conditions or for psychiatric evaluation and to provide short-term treatment."[2] In many

[1] s. 394.463, F.S.
[2] s. 394.455(26), F.S.

communities, the public receiving facility is a crisis stabilization unit (CSU). A CSU is defined as "a program that provides an alternative to inpatient hospitalization and that provides brief, intensive services 24 hours a day, seven days a week, for mentally ill individuals who are in an acutely disturbed state."[3] The definition of "crisis stabilization unit" and licensure requirements for these programs are found in part IV of chapter 394, F.S., the Community Substance Abuse and Mental Health Services Act and Rule 65E-12, F.A.C.

Part V of chapter 397 F.S., provides criteria and procedures for the involuntary admission of an individual in an acute substance abuse crisis. A person meets the criteria for involuntary admission if he or she is substance abuse impaired and because of impairment has lost the power of self-control with respect to substance use and either is likely to harm himself or herself or others or is in need of substance abuse services and his or her judgment has been so impaired that he or she is unable to appreciate the need for treatment or services.[4] Substance abuse providers may be licensed by the department for one or several separate service components.[5] Included in these licensed service components are addictions receiving facilities which are community-based facilities designated by the department to receive, screen, and assess clients found to be substance abuse impaired, in need of emergency treatment for substance abuse impairment, or impaired by substance abuse to such an extent as to meet the criteria for involuntary admission in s. 397.675, and to provide detoxification and stabilization.[6] Addictions receiving facilities (ARFs) are state-owned, state-operated, or state-contracted programs licensed by the department and designated as secure facilities to provide an intensive level of care. Licensure requirements for ARFs are found in Rule 65D-30.005, F.A.C.

Although the department develops the rules that govern the operation of both mental health crisis stabilization and substance abuse treatment facilities and licenses ARFs, CSUs are licensed by AHCA. Many individuals who present for treatment at CSUs as well as those who present at ARFs have features of both substance abuse disorders and mental illness. Provider agencies and DCF contend that the separate statutes, administrative rules, and licensure standards constrain agencies operating these facilities from effectively treating persons with co-occurring substance abuse and mental health. In addition, many of the larger provider agencies in the state have both substance abuse and mental health receiving facilities. These agencies are required to meet two separate licensure requirements administered by different agencies for what are substantially the same services, sometimes delivered in the same facility.

There is statutory precedent for the creation of integrated crisis stabilization and addictions receiving facilities. In 2005, after a successful four year pilot project, the Legislature granted the department authorization to expand the integrated children's crisis stabilization unit and juvenile addictions receiving facility model program from three counties to statewide.[7]

Section 766.101, F.S., provides authority for the Department of Health, the Department of Corrections, and other professional groups, organizations, and medical service providers including mental health treatment facilities and community mental health centers as defined in

[3] s. 394.67(5), F.S.
[4] s. 397.675, F.S.
[5] s. 397.311(18), F.S.
[6] s. 397.311(8)(a), F.S.
[7] s. 394.499, F.S.

ch. 394, F.S., to convene a medical review committee for the purpose of continuous quality assurance. The reports of these committees are confidential and exempt from the provisions of s. 119.07(1), F.S., and the committee members are immune from liability.

The department is charged with responsibility for exercising executive and administrative supervision over all mental health facilities, programs, and services in the state and for the evaluation and implementation of a complete and comprehensive statewide program of mental health.[8] Administrative and executive responsibility for health service operations includes the evaluation of the quality of services provided by contracted agencies, identification of areas of weakness, and implementation of continuous quality improvement initiatives. However, peer, utilization, and mortality review committees in DCF are not included in the definition of a "medical review committee" found in s. 766.101 (1), F.S., and therefore do not have immunity from liability nor exemption from Open Government laws necessary to conduct these activities. This has hindered the ability of the department to institute effective utilization review and quality improvement activities at state mental health treatment facilities and with contracted community providers.

Currently s. 409.906, F.S., requires that providers of Medicaid funded community mental health services must have a contract with DCF or AHCA. This provision was put into the law in the 1980's and is now largely irrelevant given that the majority of Medicaid funded mental health services are provided through a managed care arrangement. The requirement creates a substantial workload for the limited number of staff in the DCF districts who must monitor contracts with Medicaid vendors to permit them to continue to serve the rapidly diminishing number of recipients not enrolled in a Medicaid prepaid health plan or prepaid mental health plan. A substantial number of these contracts are zero dollar contracts executed only for the purpose of allowing a provider to bill Medicaid.

III. Effect of Proposed Changes:

This proposed bill creates s. 394.4996, F.S., authorizing the department, in consultation with AHCA, to establish integrated mental health crisis and addiction receiving facilities for adults. The bill authorizes the department and agency to develop standards, clinical procedures, staffing, and operational requirements and establishes the eligibility criteria for these integrated mental health and substance abuse services consistent with the criteria established in chapters 394 and 397, F.S.

The proposed bill also amends s. 766.101, F.S., to include a committee of employees, agents, or consultants of the department within the definition of a medical review committee for the purpose of reviewing activities of health care providers. The definition of "health care providers" is expanded to include community mental health centers and crisis stabilization units. Activities relating to peer review, utilization review, and mortality review of state hospitals and contracted community mental health providers by the department will be exempt from s. 286.011, F.S. and s. 24(b), Art. I of the State Constitution and will be confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

[8] s. 394.457, F.S.

The bill also amends s. 409.906(8), F.S., eliminating language that requires prospective providers of Medicaid-funded community mental health services to have a contract with DCF for mental health or substance abuse services before they can in enroll in this Medicaid program.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The proposed bill includes in the definition of "medical review committee" in s. 766.101, F.S., committees of the department that are established for the purpose of reviewing the activities of certain community mental health care providers.

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:

No information was provided by DCF on the fiscal impact of this proposed bill.

VI. Technical Deficiencies:

On page 1, line 26, page 2, line 2, and page 2, line 7, the term "substance abuse addiction" receiving facility should be replaced with "addictions" receiving facility.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.