

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1349
Disabilities

Community-Based Services for Individuals with Developmental

SPONSOR(S): Skidmore

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health & Family Services Policy Council	12 Y, 0 N	Schoolfield	Gormley
2)	Rules & Calendar Council		Kirksey	Birtman
3)				
4)				
5)				

SUMMARY ANALYSIS

HM 1349 is a House memorial to urge Congress to support the opportunity to provide increased access to community-based services for individuals with developmental disabilities. The memorial specifically urges Congress to support the Achieving a Better Life Experience (ABLE) Act of 2009, as reflected in H.R. 1205 and S. 493. Congress is also urged to support ABLE accounts for individuals with developmental disabilities to assist them in paying certain expenses including education, housing, transportation, employment support, medical care, and certain life necessities.

The memorial is to be dispatched to the President of the United States, Speaker of the House, President of the US Senate and the Florida delegation to Congress.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Home and Community Services to Persons with Developmental Disabilities

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities.¹ A developmental disability is defined in chapter 393, F.S., as “a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”² Children who are at high risk of having a developmental disability and are between the ages of 3 and 5 are also eligible for services.³

APD provides an array of home and community based services through contract providers under a four tier Medicaid waiver program.⁴ The program includes 28 home and community based services including but not limited to therapies, adult day training, behavioral services, residential habilitation services, respite, nursing services, employment and supported living services.⁵ As of January 2010, APD was serving 29,903⁶ people in the Medicaid waiver program and has a waitlist of over 18,800⁷ people for the program. APD administers a budget in excess of \$1 billion dollars to serve persons with developmental disabilities of which \$900 million is for home and community services.⁸

Achieving a Better Life Experience Act of 2009 (ABLE Act of 2009)

The ABLE Act of 2009 was introduced into both Houses of Congress on February 26, 2009. In the House of Representatives, the Act is H.R. 1205 and is sponsored by Rep. Ander Crenshaw (R-Fla) with

¹ §20.197(3), Fla. Stat.

² §393.063(9), Fla. Stat.

³ “High-risk child” is defined in §393.063(19) Fla. Stat.

⁴ §393.0661, Fla. Stat.

⁵ Florida Medicaid, Developmental Disabilities Waiver Services

Coverage and Limitations Handbook (2008) *available at*

[https://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/CL_08_070701_Waiver_DevSev_ver1%203%20\(2\).pdf](https://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/CL_08_070701_Waiver_DevSev_ver1%203%20(2).pdf).

⁶ Tier Waiver Enrollment Summary by Year and Month, December 2009.

⁷ APD Quarterly Report to the Legislature on Agency Services, February 2010.

⁸ Ch.2009-81, Laws of Florida.

32 cosponsors.⁹ In the Senate, the Act is S. 493 and is sponsored by Sen. Robert P. Casey Jr. (D-Pa) with 5 cosponsors.¹⁰ The bill will have to pass both houses of Congress and be signed by the President to become law.

The ABLE Act of 2009 amends the Internal Revenue Code to establish tax-exempt ABLE accounts for individuals with a disability to pay certain expenses of such individuals, including expenses for education, housing, transportation, employment support, medical care, and certain life necessities.¹¹

The Act includes several key elements which:

- define "individual with a disability" as an individual who is eligible to receive certain supplemental security income benefits under the Social Security Act;
- allow individual taxpayers a tax deduction, up to \$2,000 per year, for contributions to an ABLE account.
- require ABLE accounts to be disregarded in determining eligibility for Medicaid benefits and for purposes of determining eligibility for other means-tested federal programs.
- provide that funds remaining in the accounts at the time of an individual's death would be used to pay back the state Medicaid program up to the value of services provided;
- require the Secretary of the Treasury to study and report to Congress on the use of ABLE accounts and the effect of the tax deduction for contributions to such accounts.¹²

The ABLE Act is anticipated to give individuals with disabilities and or their families access to savings accounts to use in purchasing qualified expenses. Withdrawals from the account will not be subject to tax as long as they are used for qualified expenditures.

Effect of the Memorial:

This House memorial urges Congress to support the opportunity to provide increased access to community-based services for individuals with developmental disabilities. The memorial specifically urges Congress to support the Achieving a Better Life Experience (ABLE) Act of 2009, as reflected in H.R. 1205 and S. 493. Congress is also urged to support ABLE accounts for individuals with developmental disabilities to assist them with certain expenses including education, housing, transportation, employment support, medical care, and certain life necessities.

The memorial is to be dispatched to the President of the United States, Speaker of the House, President of the US Senate and the Florida delegation to Congress.

In support of the memorial the following whereas clauses were included:

- Whereas, federal and state financial assistance is provided for services under the Medicaid program for individuals with developmental disabilities, and
- Whereas, community-based services are a valuable cost-effective alternative to institutional care because such services benefit both the individual receiving the services and the federal and state programs that fund the services, and
- Whereas, a study by the National Conference of State Legislatures and other studies document that individuals with developmental disabilities who receive services in their homes or other

⁹ On February 26,2009, "Referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned." This is the current state of H.R. 1205. Thomas, <http://thomas.loc.gov/cgi-bin/bdquery/z?d111:h.r.01205>: (last visited April 6, 2010).

¹⁰ 2/26/2009 Referred to Senate committee. Status: Read twice and referred to the Committee on Finance. The last major action on S. 493 was referred to the Senate Committee on Finance. The Senate committee on finance has read the bill twice. Thomas, <http://thomas.loc.gov/cgi-bin/bdquery/z?d111:s493>: (last visited April 6, 2010).

¹¹ H.R. 1205--111th Congress: ABLE Act of 2009. (2009). In *GovTrack.us (database of federal legislation)*. Retrieved March 18, 2010, from <http://www.govtrack.us/congress/bill.xpd?bill=h111-1205&tab=summary>.

¹² H.R. 1205--111th Congress: ABLE Act of 2009. (2009). In *GovTrack.us (database of federal legislation)*. Retrieved March 18, 2010, from <http://www.govtrack.us/congress/bill.xpd?bill=h111-1205&tab=summary>.

community settings experience improved outcomes, quality of care, and quality of life in contrast to individuals with developmental disabilities who receive care in institutional settings, and

- Whereas, publicly funded programs that cover community-based services for individuals with developmental disabilities are limited, and
- Whereas, federal and state programs provide limited support for community-based services that serve as an alternative to institutional care for individuals with developmental disabilities, and
- Whereas, the years after a student with a developmental disability leaves the educational system are critical for learning and transition, and
- Whereas, the need to allow the opportunity to provide increased access to community-based services at the discretion of the developmentally disabled individual's family is recognized, and
- Whereas, access to community-based services, regardless of a family's income, insurance coverage, or Medicaid eligibility, is recognized as essential in improving the quality of life for individuals with developmental disabilities.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES