

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 1462

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Bradley

SUBJECT: Behavioral Health Services

DATE: March 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1462 allows veterans who were discharged or released under a general discharge who are convicted of a criminal offense and suffer from a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem be allowed to participate in the Military Veterans and Servicemembers Court Programs.

The bill authorizes counties to provide funds for voluntary, pretrial treatment-based mental health court programs. Contingent on an annual appropriation, the bill allows each judicial circuit with a treatment-based mental health court to establish at least one position to coordinate the responsibilities of participating agencies and service providers. Additionally, the bill adds members from specified organizations to serve on the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee. Managing entities are directed to establish enrollment prioritization criteria for substance abuse and mental health services

The bill requires managing entities to collect specified utilization data in real time or at least daily and review the data for accuracy. Managing entities must submit data to the Department of Children and Families (DCF) on a monthly and annual basis. The department is required to create a statewide database for the purpose of analyzing the payments for and the use of state-funded crisis stabilization services.

The effective date of the bill is July 1, 2015. The fiscal impact of approximately \$175,000 would be a cost for the five Managing Entities to expand current data capabilities.

II. Present Situation:

Military Veterans and Servicemembers Court Programs are currently authorized by s. 394.47981, F.S. The chief judge in each circuit may establish a program to serve servicemembers who are convicted of a criminal offense and who suffer from a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological program to be sentenced in a manner that appropriately addresses the needs of the servicemember.

Mental health courts are a type of problem solving court that combine judicial supervision with community mental health treatment and other support services in order to reduce criminal activity and improve the quality of life of participants. Mental health court programs are not established or defined in Florida Statutes. A key objective of mental health courts is to prevent the jailing of offenders with mental illness by diverting them to appropriate community services or to significantly reduce time spent incarcerated. As of October 2014, Florida had 26 mental health courts operating in 16 circuits.

The Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program currently exists within the DCF. The purpose of the program is to provide funding to counties with which they can plan, implement, or expand initiatives that increase public safety, avert increased spending on criminal justice, and improve the accessibility and effectiveness of treatment services for adults and juveniles who have a mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders and who are in, or at risk of entering, the criminal or juvenile justice system. The Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee is comprised of membership from the Department of Children and Families, the Department of Corrections, the Department of Juvenile Justice, the Department of Elderly Affairs, and the Office of the State Courts Administrator.

The department currently contracts for the purchase and management of the day-to-day operational delivery of behavioral health services with community-based Managing Entities (ME) who contract with direct service agencies called provider networks. The provider networks constitute an array of emergency, acute care, residential, outpatient and recovery support services. Section 394.674, F.S., establishes the eligibility requirements for receiving substance abuse and mental health services funded by DCF, and identifies the department's priority populations that are eligible for services.¹

Individuals experiencing severe emotional or behavioral problems often require emergency treatment to stabilize their situations before referral for outpatient services or inpatient services can occur. Emergency mental health stabilization services may be provided to individuals on a voluntary or involuntary basis. Individuals receiving services on an involuntary basis must be taken to a facility that has been designated by the department as a "receiving facility" as defined in part I of ch. 394, F.S.²

Receiving facilities, often referred to as Baker Act Receiving Facilities, are public or private facilities designated by DCF for the purposes of receiving and examining individuals on an

¹ Section 394.674(4), F.S.

² Section 394.455(26), F.S.

involuntary basis under emergency conditions and to provide short-term treatment. Receiving facilities that have a contract with one of DCF's MEs to provide mental health services to all persons, regardless of their ability to pay, and that are receiving state funds for this purpose, are considered public receiving facilities.³

Crisis Stabilization Units (CSUs) are public receiving facilities that receive state funding and provide a less intensive and less costly alternative to inpatient psychiatric hospitalizations for individuals presenting as acutely mentally ill. CSUs screen, assess, and admit individuals brought to the unit under the Baker Act, as well as those individuals who voluntarily present themselves, for short-term services.⁴ CSUs provide services 24 hours a day, 7 days a week, through a team of mental health professionals. The purpose of the CSU is to examine, stabilize, and redirect people to the most appropriate and least restrictive treatment settings, consistent with their mental health needs. Individuals often enter the public mental health system through CSUs.⁵ Managing entities must follow current statutes and rules that require CSUs to be paid for bed availability rather than utilization.

Section 394.461(4), F.S., directs facilities designated as public receiving or treatment facilities to report to DCF on an annual basis for following data, unless the data are currently being submitted to the AHCA:

- Number of licensed beds.
- Number of contract days.
- Number of admissions by payor class and diagnoses.
- Number of bed days by payor class.
- Average length of stay by payor class.
- Total revenues by payor class.

The department must issue an annual report based on the data required including individual facility data and statewide totals. The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

As of December 2014, there are 53 public receiving facilities with 2,040 beds and 67 private receiving facilities with 3,165 beds. Based on the Florida Mental Health Institute's Annual Report of Baker Act Data Summary for 2013, released May 2014, in calendar year 2013, 171,744 involuntary examinations were initiated

III. Effect of Proposed Changes:

Section 1 amends s. 394.47981, F.S., to allow veterans who were discharged or released under a general discharge to participate in Military Veterans and Servicemembers Court programs.

Section 2 creates s. 394.47892, F.S., to allow a county to fund treatment-based mental health programs. Persons in the justice system assessed with a mental illness will receive treatment services tailored to their individual needs. Pre-trial intervention programs may be included and participation in the treatment-based mental health program is voluntary. Post adjudication

³ Section 394.455(25), F.S.

⁴ Section 394.875, F.S.

⁵ Appro. Subcommittee on Health and Human Services, The Florida Senate, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011).

participation in the program is based on the sentencing court's assessment of specific criteria including the defendant's agreement to enter into the program.

The bill allows, based on an annual appropriation, for each judicial circuit that creates a treatment-based mental health court program to establish at least one coordinator position that coordinates the responsibilities of participating agencies and service providers. Counties that choose to fund the court program must secure funding from sources other than the state for costs not otherwise assumed by the state. Additionally, the chief judge in each circuit may establish an advisory committee for the treatment-based mental health court program.

Section 3 amends s. 394.656, F.S., to direct DCF to add specified individuals to the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee. The committee is to serve as an advisory body to review policy and funding issues to reduce the impact on communities and the court system by persons with mental illness and substance abuse disorders. Additionally, DCF is directed to create a grant review and selection committee which members shall have expertise in the grant content areas such as substance abuse and mental health disorders, community corrections and law enforcement. The bill allows not-for-profit community providers designated by a local county planning council or committee to apply for a 3-year implementation or expansion grant.

Section 4 amends s. 304.9082, F.S., directing DCF to establish enrollment criteria to be implemented by the managing entities. The managing entities are directed to establish a process for the enrollment of the state's priority substance abuse and mental health population into appropriate services.

The bill directs the DCF to develop, implement, and maintain standards under which a behavioral health managing entity must collect utilization data from all public receiving facilities within its geographic service area. For those purposes, the bill defines "public receiving facility" as an entity that meets the licensure requirements of and is designated by the DCF to operate as a public receiving facility under s. 394.875, F.S., and which is operating as a licensed crisis stabilization unit.

The bill requires the DCF to develop standards for managing entities and public receiving facilities to be used for data collection, storage, transmittal, and analysis. The standards must allow for compatibility of data and data transmittal. The DCF must require managing entities to comply with the bill's requirements for data collection by August 1, 2015.

A managing entity must require a public receiving facility within its provider network to submit data, in real time or at least daily, for:

- All admissions and discharges of clients receiving public receiving facility services who qualify as indigent as defined in s. 394.4787, F.S.; and
- Current active census of total licensed beds, the number of beds purchased by the DCF, the number of clients qualifying as indigent occupying those beds, and the total number of unoccupied licensed beds regardless of funding.

A managing entity must require a public receiving facility within its provider network to submit data on a monthly basis which aggregates the daily data previously submitted. The managing

entity must reconcile the data in the monthly submission to the daily data to check for consistency. If the monthly aggregate data is inconsistent with the daily data, the managing entity must consult with the public receiving facility to make corrections as necessary to ensure accurate data.

After ensuring accurate data, the managing entity must submit the data to DCF on a monthly and annual basis. The department is required to create a statewide database for the purpose of analyzing the payments for and the use of crisis stabilization services on a statewide basis and on an individual public receiving facility basis.

The department is required to submit a report by January 31, 2016, and annually thereafter, to the Governor, the President of the Senate and the Speaker of the House of Representatives, which provides details on the bill's implementation, including the status of the data collection process and a detailed analysis of the data collected. The department is required to adopt rules to implement the provisions of this bill.

Section 5 amends s. 29.004, F.S., to allow the state courts system to be provided state revenues for service referral, coordination, monitoring, and tracking for treatment-based mental health court programs.

Section 6 amends s. 39.001, F.S., to include mental illnesses in the health care services to children and parents for families who are at risk of being involved in protective supervision of foster care. The use of treatment-based mental health court program and drug court program models may be required by the court following a dependency adjudication.

Section 7 amends s. 39.507, F.S., to allow courts to include mental health assessments or evaluations in its order of adjudication of dependency or a finding of dependency where adjudication is withheld. The court may require participation in and compliance with a treatment-based mental health court program.

Section 8 amends s. 39.521, F.S., allow the court, when a child is adjudicated dependent, to require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The court may order such person to participate in and comply with a treatment-based mental health court program.

Section 9 amends s. 948.08, F.S., to include a veteran who is discharged or released under a general discharge who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem to be eligible for participation in a pretrial veterans' treatment intervention program.

Section 10 amends s. 948.16, F.S., to include a veteran who is discharged or released under a general discharge who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem and is charged with a misdemeanor to be eligible for admission into a misdemeanor pretrial veterans' intervention program.

Section 11 amends s. 948.21, F.S., to allow the court to impose as a condition of probation the requirement that the probationer or community controllee participate in a treatment program

established to treat mental illness, traumatic brain injury, substance abuse disorder, or psychological problem to include a veteran who is discharged or released under a general discharge.

Section 12 creates an unnumbered section of statute to direct the AHCA to apply to the federal government for a planning grant and other grant programs that become available that create opportunity to improve access to community mental health services while improving Medicaid reimbursement rates for such services.

Section 13 provides the bill to have an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DCF estimates it would cost approximately \$175,000 to expand the data capabilities of five MEs. Two MEs report already having these capabilities at an estimated cost of \$35,000 each. The department's Office of Information Technology Services would need to create a mechanism to receive the utilization data from the MEs and store it in a database; however, the cost could be absorbed within current agency resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.47891, 394.656, 394.9082, 29.004, 39.001, 39.507, and 39.521, 948.08, 948.16, 948.21.

This bill creates section 394.47892 of the Florida Statutes.

This bill creates a section of Florida Statutes that is undesignated.

IX. Additional Information:

Committee Substitute – Statement of Substantial Changes: Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families and Elder Affairs on March 19, 2015:

The Committee Substitute:

- Includes veterans who were discharged or released under a general discharge who suffer from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem and:
 - are charged with a felony to participate in pre-trial veterans' treatment intervention program;
 - are charged with a misdemeanor to participate in a pre-trial veterans' treatment intervention program; and
 - as a condition of probation or community control participate in a treatment program established to treat the probationer or community controllee's mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.
- Removes the requirement that the Agency for Health Care Administration submit a federal waiver or a Medicaid state plan amendment for the provision of health homes for individuals with chronic conditions, including severe mental illness and substance abuse disorders.

A. Amendments:

None.