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 Appropriations Subcommittee on Health and Human Services

BILL:	CS/SB 998
INTRODUCER:	Health Policy Committee and Senator Ring
SUBJECT:	Adolescent and Child Treatment Programs
DATE:	February 9, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	**Fav/CS**
2.	Brown	Pigott	AHS	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 998 establishes licensure, regulatory, operational, and administrative standards for adolescent and child residential treatment programs (ACRT) and adolescent and child outdoor programs (ACO). An ACRT offers room and board, and provides specialized treatment, specialized therapies, and rehabilitation or habilitation services for an adolescent or child between the ages of 6 and 18, with emotional, psychological, developmental, or behavioral problems or disorders or substance abuse problems. An ACO offers wilderness hiking and camping experiences as a form or rehabilitation and treatment for the same population group of ACRTs. Both of these programs are intended to assist an adolescent or child acquire the social and behavioral skills necessary for healthy adjustment to school, family life, and community.

The Agency for Health Care Administration (AHCA) estimates that 19 new full-time-equivalent positions will be necessary to implement the bill, at a recurring annual cost of $1.16 million from the Health Care Trust Fund, and that those costs will be offset by revenue to the trust fund due to the collection of licensing fees.

The effective date of the bill is July 1, 2016.

II. Present Situation:

Current law provides for a variety of residential programs for persons with emotional maladies, substance abuse dependencies, and developmental disabilities. Multiple state agencies have

responsibility for establishing and enforcing regulatory standards for these programs, including the Department of Children and Families (DCF), the AHCA, and the Agency for Persons with Disabilities (APD).

Residential Treatment Facilities

Mental Health

Mental health residential treatment centers are licensed under s. 394.875, F.S. Long-term residential facilities include facilities for adult residential treatment and resident treatment centers for children and adolescents.[1]

The purpose of a residential treatment facility is to be part of a comprehensive treatment program for mentally ill individuals in a community-based residential setting.[2] A mental health residential treatment facility must provide a long-term, homelike residential environment that provides care, support, assistance, and limited supervision in daily living to adults diagnosed with a serious and persistent major mental illness who do not have another primary residence. The average length of stay must be 60 days or longer. Residential treatment centers are divided into five licensure classifications, referred to as levels. The level designation depends upon the functional capabilities of the residents and the care and supervision needed by those residents. Different regulatory standards apply to each level.[3]

The purpose of a residential treatment center for children and adolescents is to provide mental health assessment and treatment services to children and adolescents who are experiencing an acute mental or emotional crisis, have a serious emotional disturbance or mental illness,[4] or have an emotional disturbance.[5,6] Children may be admitted through the mental health system or through the protective custody provisions in ch. 39, F.S.[7] Similar residential settings include therapeutic group homes. The DCF, in consultation with the AHCA, has adopted rules governing a residential treatment center for children and adolescents which specify licensure standards for: admission; length of stay; program and staffing; discharge and discharge planning; treatment

[1] "Child" means a person from birth until the person's 13th birthday. *See* s. 394.492(3), F.S. "Adolescent" means a person who is at least 13 years of age but under 18 years of age. *See* s. 394.492(1), F.S.
[2] Section 394.875(1)(b), F.S.
[3] Rule 65E-4.016(1), F.A.C.
[4] "Child or adolescent who has a serious emotional disturbance or mental illness" means a person under 18 years of age who is diagnosed as having a mental, emotional, or behavioral disorder that meets one of the diagnostic categories specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association; and exhibits behaviors that substantially interfere with or limit his or her role or ability to function in the family, school, or community, which behaviors are not considered to be a temporary response to a stressful situation. The term includes a child or adolescent who meets the criteria for involuntary placement under s. 394.467(1), F.S.
[5] "Child or adolescent who has an emotional disturbance" means a person under 18 years of age who is diagnosed with a mental, emotional, or behavioral disorder of sufficient duration to meet one of the diagnostic categories specified in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, but who does not exhibit behaviors that substantially interfere with or limit his or her role or ability to function in the family, school, or community. The emotional disturbance must not be considered to be a temporary response to a stressful situation. The term does not include a child or adolescent who meets the criteria for involuntary placement under s. 394.467(1). 394.492(5), F.S.
[6] Section 394.875(1)(c), F.S.
[7] Rule chapter 65E-9, F.A.C.

planning; seclusion, restraints and time-out; rights of patients; use of psychotropic medications; and standards for the operation of such facilities.[8]

A license issued by the AHCA is required in order to operate or act as a residential treatment center or a residential treatment center for children and adolescents in this state.[9] In addition to other documentation required for licensure, applicants must provide proof of liability insurance coverage in amounts set by the DCF and the AHCA by rule.[10] The AHCA and the DCF may enter and inspect any licensed facility and access clinical records of any client to determine compliance with applicable laws and rules and may inspect an unlicensed premises with the permission of the person in charge or pursuant to a warrant.[11]

Substance Abuse Services

Under ch. 397, F.S., relating to substance abuse services, residential treatment is defined as a service provided in a structured, live-in environment within a non-hospital setting on a 24-hours-per-day, seven-days-per-week basis, and is intended for individuals who meet the placement criteria for this component.[12] The DCF is responsible for licensing and regulating licensable service components delivering substance abuse services on behalf of service providers under ch. 397, F.S.[13] The DCF has adopted rules relating to the licensure and operation of providers of substances abuse services.[14]

Developmental Disabilities

Residential facilities also exist for persons with developmental disabilities. For example, a group home facility is a residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents.[15] The capacity of a group home facility is at least four but not more than 15 residents.

An intermediate care facility for the developmentally disabled (ICF/DD) is a residential facility licensed and certified under state law and also certified by the federal government, pursuant to the federal Social Security Act, as a provider of Medicaid services to persons who have developmental disabilities.[16]

The APD provides, through its licensing authority and by rule, license application procedures, provider qualifications, facility and client care standards, requirements for client records, requirements for staff qualifications and training, and requirements for monitoring foster care

[8] *See* Section 394.875(8), F.S., and Rule Chapters 65E-9, and 65G-2, F.A.C.
[9] Section 394.875(2), F.S.
[10] Section 394.876(2), F.S.
[11] Section 394.90(1) and (2), F.S.
[12] Section 394.311(22)(a)9., F.S.
[13] Section 397.321(6), F.S.
[14] *See* Rule chs. 65D-30 and 65G-2, F.A.C.
[15] Section 393.063(17), F.S.
[16] Section 400.960(6), F.S.

facilities, group home facilities, residential habilitation centers,[17] and comprehensive transitional education programs that serve APD clients.[18]

Wilderness Camps

The DCF regulates wilderness camps as residential child-caring agencies.[19] Rules provide for a short-term wilderness program, which is a residential program of 60 days or less that emphasizes behavioral changes through rigorous fitness training and conditioning in a wilderness environment. Rules also authorize a wilderness camp, which is a residential child caring program that provides a variety of outdoor activities that take place in a wilderness environment. Although wilderness programs are exempted[20] from several regulations applicable to residential programs, these programs are currently subject to existing regulation. [21]

III. Effect of Proposed Changes:

Adolescent and Child Residential Treatment Program

Section 394.88, F.S., is created to establish an ACRT within the statutory chapter relating to mental health. The purpose of the new program is to offer room and board and to provide, or arrange for the provision of, specialized treatment, specialized therapies,[22] and rehabilitation or habilitation[23] services for adolescents and children between 6 and 18 years of age with emotional, psychological, developmental, or behavioral problems or disorders or substance abuse problems. An ACRT assists these youth in acquiring the social and behavioral skills necessary for a healthy adjustment to school, family life, and community.

The term "rehabilitative services" is described within the definition of "mental health services" and "substance abuse services" in the part[24] of the Florida Statutes applicable to the new residential treatment program created in this bill. Within the definition of mental health services, rehabilitative services is described to mean services intended to reduce or eliminate the disability associated with mental illness. Rehabilitative services may include assessment of personal goals and strengths, readiness preparation, specific skill training, and assistance in designing environments that enable individuals to maximize their functioning and community

[17] A residential habilitation center is a community residential facility licensed under this ch. 393, F.S., which provides habilitation services. The capacity these facilities may not be fewer than nine residents. However, licensure of new residential habilitation centers creased after October 1, 1989.
[18] Section 393.067(1), F.S.
[19] Section 409.175(2)(j), F.S.
[20] *See for example* Rule 65C-14.090, F.A.C.
[21] *See* Rules 65C-14.001, and 65C-14.110 – 65C-14.115, F.A.C.
[22] Specialized therapies is defined in s. 393.063, F.S., to mean means those treatments or activities prescribed by and provided by an appropriately trained, licensed, or certified professional or staff person and may include, but are not limited to, physical therapy, speech therapy, respiratory therapy, occupational therapy, behavior therapy, physical management services, and related specialized equipment and supplies.
[23] Habilitation services in defined in s. 393.063, F.S., to mean the process by which a client is assisted to acquire and maintain those life skills which enable the client to cope more effectively with the demands of his or her condition and environment and to raise the level of his or her physical, mental, and social efficiency. It includes, but is not limited to, programs of formal structured education and treatment.
[24] Part IV of ch. 394, F.S., Community Substance Abuse and Mental Health Services.

participation.[25] Within the definition of substance abuse services, rehabilitation services is described to include residential, outpatient, day or night, case management, in-home, psychiatric, and medical treatment, and methadone or medication management.[26]

An ACRT is defined as a 24-hour group living environment for four or more individuals unrelated to the owner or provider. An ACRT must be licensed by the AHCA in accordance with the general facility licensing standards in part II of ch. 408, F.S. The DCF, in consultation with the AHCA and the APD, must adopt rules for licensure, administration, and operation of ACRTs.

The director of an ACRT, who is responsible for the operation of the program, the program facility, and the day-to-day supervision of the residents, must be a psychiatrist or a psychologist. Similar programs currently authorized in statute require a psychiatrist to serve as the medical director and to oversee the development and revision of a treatment plan and the provision of mental health services provided to children.[27] Under the bill, the director, or a staff member who has been appointed by the director to serve at the director's substitute, must be on site at the program facility at all times. The director must maintain a current list of all program residents at the facility.

Additional program staff must include physicians, psychologists, mental health counselors, or advanced registered nurse practitioners who have been trained in providing medical services and treatment to adolescents and children, to provide treatment for the residents. These health care practitioners must also be specifically trained to provide applicable services to adolescents and children diagnosed with mental health and substance abuse problems and for residents with disabilities, depending upon the composition of the facility's residents.

All staff who have contact with residents must undergo a level-2 background screening. The bill establishes minimum staffing ratios of:

- Two health care practitioners licensed in a profession listed in the previous paragraph at all times, and
- A one-to-four professional staff-to-resident ratio during awake hours.

A treatment plan must exist for each resident. The treatment plan must be reviewed and signed when the resident enrolls in the ACRT and periodically thereafter. The director and the resident's parent or legal guardian must sign the treatment plan.

An ACRT is required to maintain documentation evidencing compliance with local zoning, business licenses, building code, fire safety code, and health code requirements. An ACRT also must obtain approval from applicable governmental agencies for new program services or increased resident capacity. If the ACRT provides services to residents with disabilities, it must be located where schools, churches, recreation facilities, and other community facilities are available.

An ACRT must:

[25] Section 394.67(15)(b), F.S.
[26] Section 394.67(24)(d), F.S.
[27] *See* Rule 65E-9.007(3), F.A.C., Licensure of Residential Treatment Centers, Staffing.

- Provide a curriculum approved by the Department of Education; and
- Conduct counseling sessions or other appropriate treatments that must be documented in each resident's individual record.

If an ACRT provides its own school, the school must be approved by the State Board of Education, the Southern Association of Colleges and Schools, or another educational accreditation organization.

The DCF may establish by rule additional staffing requirements to ensure resident safety and service delivery as well as other requirements relating to the treatment and care of residents.

Adolescent and Child Outdoor Program

The bill creates s. 394.89, F.S., to establish an ACO within the statutory chapter relating to mental health. The purpose of the new program is to offer wilderness hiking and camping experiences through field group activities and expeditions as a form of rehabilitation and treatment for participants between the ages of 6 and 18 years of age with emotional, psychological, developmental, or behavioral problems or disorders or substance abuse problems. An ACO assists such youths to acquire the social and behavioral skills necessary for a healthy adjustment to school, family life, and community. An ACO may be established as an independent program or as an adjunct and subsidiary program to an ACRT.

The definition of an ACO participant specifically excludes the parent or contracting agent that enrolls the adolescent or child in the program.

An ACO must be licensed by the AHCA in accordance with the general facility licensing standards in part II of ch. 408, F.S. The DCF, in consultation with the AHCA and the APD, must adopt rules to establish requirements for licensure, administration, and operation of ACOs. The DCF is authorized to establish rules relating to staffing requirements in addition to those specifically enumerated in the bill. All local, state, and federal regulations and professional licensing requirements must be met by an ACO as a condition of licensure.

The AHCA is tasked with reviewing and approving a program's training plan that specifies the programs goals and methodologies. This plan must also address governing a participant's conduct and the consequences for his or her conduct while enrolled in the program.

An ACO must employ a psychiatrist or psychologist as its program supervisor, who is responsible for and has authority over all policies and activities of the program. Additional responsibilities of the supervisor include:

- Coordinating office and support services,
- Supervising the operations of the program,
- Ensuring staff is adequately trained,
- Maintaining enrollment records, including a current list of each participant, the participant's group field activity or expedition, and geographic location, and this list must be updated every 24 hours; and
- Developing and signing a written plan for each group field activity and expedition.

The bill requires an ACO to provide an educational component approved by the Department of Education to a participant if he or she is absent from school or an educational setting for more than 30 days. The program supervisor must coordinate with the local school board to provide the educational component as part of a participant's program experience prior to enrolling the participant. To offer educational credit to a participant, the ACO must be recognized and approved by the State Board of Education.

Each ACO must provide to its participants access to a multidisciplinary team of licensed health care practitioners who have been trained in providing medical services and treatment to adolescents and children. This team must include, at a minimum, a physician and at least one of the following: clinical social worker, mental health counselor, marriage and family therapist, and certified school counselor.

Each group field activity or expedition must have field staff working directly with the participants. Support staff must also be assigned responsibility for the delivery of supplies to the field, mail delivery, communications, and first-aid support.

All professional and non-professional staff, as well as all providers who may be in contact with participants, must undergo a level-2 background screening before any contact occurs.

The effective date of the bill is July 1, 2016.

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:

The AHCA anticipates that licensure fees would average $4,860 under CS/SB 998 and that approximately 500 licenses would be issued in the first year of implementation, subject to biennial renewal.[28]

C. Government Sector Impact:

The DCF indicates that the bill has no fiscal impact on the department.

The AHCA anticipates the need for 19 full-time-equivalent (FTE) positions in order to implement the bill, with a recurring cost of $1.16 million and a nonrecurring cost of $106,380 for the first year. These costs would be paid through the Health Care Trust Fund. Additionally, the AHCA anticipates collecting $2.43 million in licensure fees biennially. This revenue would be deposited into the Health Care Trust Fund.[29]

Under this projection, the bill has a slightly positive fiscal impact on the AHCA's Health Care Trust Fund on a biennial basis.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not specify the amounts of licensure fees for the new programs. The AHCA projects an average licensure fee of $4,860 biennially in order for the programs to be financially self-sustaining.[30]

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 394.88 and 394.89.

IX. Additional Information:

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

CS by Health Policy on January 19, 2016:
The committee substitute:

- Changed the title of the two programs from residential treatment programs to adolescent and child residential treatment programs and from outdoor youth programs to adolescent and child outdoor programs.
- Limited the scope of the programs to youth between the ages of 6 – 18.

[28] The Agency for Health Care Administration, *2016 Agency Legislative Bill Analysis for SB 998*, Dec. 4, 2015. On file with the Senate Appropriations Subcommittee on Health and Human Services.
[29] *Id.*
[30] *Id.*

- Removed most of the prescriptive regulatory structure and substituted a regulatory framework with rulemaking authority.
- Clarified AHCA, DCF, and APD responsibilities for licensure and rulemaking.

B. Amendments:

None.