

**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.)

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

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BILL: SB 714

INTRODUCER: Senator Garcia

SUBJECT: Comprehensive Transitional Education Programs

DATE: March 3, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	<b>Favorable</b>
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

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**I. Summary:**

The proposed legislation authorizes the Agency for Persons with Disabilities (APD) to petition a court for the appointment of a receiver for a comprehensive transitional education program under certain circumstances. The bill also provides that a new comprehensive transitional education program license may not be granted after July 1, 2017, under s. 393.18, F.S., and a license may not be renewed for an existing comprehensive transitional education program after December 31, 2019.

The bill has an effective date of July 1, 2017, and has no fiscal impact.

**II. Present Situation:**

A comprehensive transitional education program (CTEP) serves individuals with developmental disabilities and also have severe or moderate maladaptive behaviors. In Florida, there are only two CTEPs licensed and both are held by Advoserv, Inc. CTEP licenses are issued for a 12-month period. No fees are charged for the initial application or any renewal.

In s. 393.062, F.S., the legislature has expressed its intent that community-based programs and services for individuals with developmental disabilities are preferred to programs operated directly by the state.<sup>1</sup> Pursuant to the recently issued federal Medicaid waiver guidelines, there has been a shift to provide person-centered care and for care to be provided in home and community-based settings, moving away from institutionalized settings as currently utilized.<sup>2</sup> The new Medicaid waiver guidelines become effective March 2019.<sup>3</sup>

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<sup>1</sup> Agency for Persons with Disabilities legislative analysis dated February 23, 2017.

<sup>2</sup> *Id.*

<sup>3</sup> Medicaid Program; State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community-Based Services (HCBS) Waivers; Final Rule 79 Fed. Reg. 2948 (Jan. 16, 2014). The effective date of the final

### **Receivership**

A receiver is “[an] indifferent person between the parties appointed by a court to collect and receive the rents, issues and profits of land, or the produce or person estate, or other things which it does not seem reasonable to the court that either party should do; or where a party is incompetent to do so.”<sup>4</sup> Pursuant to s. 393.0678, F.S., APD may petition a court for the appointment of a receiver for a residential habilitation center or a group home facility owned and operated by a corporation or partnership when certain conditions exist:

- A person is operating a facility without a license and refuses to make an application for a license;
- The licensee is closing the facility or has informed the department that it intends to close the facility, and adequate arrangements have not been made for relocation of the residents within seven days, exclusive of weekends and holidays, of the closing of the facility;
- The agency determines that conditions exist in the facility which presents an imminent danger to the health, safety, or welfare of the residents of the facility or which present a substantial probability that death or serious physical harm would result; or
- the licensee cannot meet its financial obligations to provide food, shelter, care, and utilities.<sup>5</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 393.0678(1), F.S., to add Comprehensive Transitional Education Programs to the list of entities for which receivership proceedings may be initiated by APD.

**Section 2** amends s. 393.18, F.S., to provide that new CTEPs may not be licensed in Florida after July 1, 2017, and existing licenses may not be renewed after December 31, 2019. Currently, CTEP licenses are renewed at the end of each calendar year. This will allow APD to comply with the federal guidelines, effective March 2019, related to the provision of Medicaid home and community-based services in residential settings.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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regulations was March 14, 2014, and the regulations allow states up to five years to bring its home and community-based programs into compliance with the home and community-based settings requirements.

<sup>4</sup> *Black's Law Dictionary* (Online Dictionary 2nd Ed.)

<sup>5</sup> section 393.0678(1)(a)-(d), F.S.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The transition from the current large group home operated by Advoserv, Inc., to smaller group homes will require all clients, including those with private insurance, to move into a new group home. The location and expense of the smaller group homes are not known at this time.

C. Government Sector Impact:

APD will be required to provide assessments and transition plans to current group home residents. APD will also be required to provide the licensing and oversight of the smaller group homes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 393.0678 and 393.18.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.