

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: SB 1678

INTRODUCER: Senator Montford

SUBJECT: Substance Abuse and Mental Health

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	Pre-meeting
2.			AHS	
3.			AP	

I. Summary:

SB 1678 adds dementia and traumatic brain injury to the listed conditions excluded in the definition of “mental illness” as it relates to involuntary commitments under the Baker Act. The bill adds mandatory community action team (CAT) coverage to include Charlotte and Leon counties. The bill revises the eligibility criteria for receiving Department of Children and Families (DCF) funded substance abuse and mental health services to modify eligibility determinations. The bill also revises membership in, and the scope of, the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Statewide Grant Review Committee.

The bill repeals the requirement for DCF to develop a certification process for community substance abuse prevention coalitions. The bill also revises training requirements for court-appointed forensic evaluators, requiring refresher training every three years.

These changes are a part of DCF’s 2020 legislative package. The bill will have an indeterminate fiscal impact on DCF and the state court system and has an effective date of July 1, 2020.

II. Present Situation:

The Department of Children and Families administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.

Behavioral Health Managing Entities

In 2001, the Legislature authorized DCF to implement behavioral health managing entities as the management structure for the delivery of local mental health and substance abuse services.¹ The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.² Full implementation of the statewide managing entity system occurred in April 2013; all geographic regions are now served by a managing entity.³

DCF contracts with seven MEs - Big Bend Community Based Care, Lutheran Services Florida, Central Florida Cares Health System, Central Florida Behavioral Health Network, Inc., Southeast Florida Behavioral Health, Broward Behavioral Health Network, Inc., and South Florida Behavioral Health Network, Inc., that in turn contract with local service providers⁴ for the delivery of mental health and substance abuse services:⁵

Baker Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address the mental health needs of individuals in the state. The Baker Act allows for voluntary and, under certain circumstances, involuntary, examinations of individuals suspected of having a mental illness and presenting a threat of harm to themselves or others. The Baker Act also establishes procedures for courts, law enforcement, and certain health care practitioners to initiate such examinations and then act in response to the findings.

Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.⁶ An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:⁷

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

¹ Ch. 2001-191, Laws of Fla.

² Ch. 2008-243, Laws of Fla.

³ *The Department of Children and Families Performance and Accountability System for Behavioral Health Managing Entities*, Office of Program Policy Analysis and Government Accountability, July 18, 2014.

⁴ Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

⁵ Department of Children and Families, *Managing Entities*, <https://www.myflfamilies.com/service-programs/samh/managing-entities/> (last visited February 9, 2020).

⁶ SS. 394.4625 and 394.463, F.S.

⁷ S. 394.463(1), F.S.

Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Program

In 2007, the Legislature created the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program (Program). The purpose of the Program is to provide funding to counties to 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 systems.⁸

A county, non-profit community provider or managing entity designated by a county planning council or committee may apply for a one-year planning grant or a three-year implementation expansion grant under the Program.⁹ The purpose of the grants is to demonstrate that investment in treatment efforts related to mental illness, substance abuse disorders, or co-occurring mental health and substance abuse disorders results in a reduced demand on the resources of the judicial, corrections, juvenile detention, and health and social services systems.¹⁰ Currently, there are 24 grant agreements for county programs.¹¹ Total funding for the 24 grant agreements over their lifetimes is \$28,174,388.¹²

Certification of Community Substance Abuse Prevention Coalitions

Section 397.321, F.S., requires DCF to license and regulate all substance abuse providers in the state. It also requires DCF to develop a certification process by rule for community substance abuse prevention coalitions (prevention coalitions) process.¹³

Prevention coalitions are local partnerships between multiple sectors of the community that respond to community conditions by developing and implementing comprehensive plans that lead to measurable, population-level reductions in drug use and related problems.¹⁴ They do not provide substance abuse treatment services, and certification is not a requirement for eligibility to receive federal or state substance abuse prevention funding. However, to receive funding from DCF, a coalition must follow a comprehensive process that includes a detailed needs assessment and plan for capacity building, development, implementation, and sustainability to ensure that data-driven, evidence-based practices are employed for addressing substance misuse for state-funded coalitions.¹⁵

⁸ S. 394.656(1), F.S.

⁹ S. 394.656(5), F.S.

¹⁰ Id.

¹¹ *Florida Substance Abuse and Mental Health Plan – Triennial State and Regional Master Plan Fiscal Years 2019-2022*, Florida Department of Children and Families, p. 28, (May 2019), <https://www.myflfamilies.com/service-programs/samh/publications/docs/SAMH%20Services%20Plan%202019-2022.pdf> (last visited February 6, 2020).

¹² Id. at 71-72.

¹³ Department of Children and Families, Agency Bill Analysis for 2020 SB 1678, January 14, 2020. On file with the Senate Children, Families, and Elder Affairs Committee.

¹⁴ Id.

¹⁵ Id.

Some prevention coalitions choose to apply for certification from nationally-recognized credentialing entities. Additionally, the Florida Certification Board, a non-profit professional credentialing entity, offers certifications for Certified Prevention Specialists and Certified Prevention Professionals, for those individuals who desire professional credentialing.¹⁶ However, Florida is the only state that requires prevention coalitions to be certified. Only one other state, Ohio, has established a certification program for prevention coalitions, and it is voluntary.¹⁷

Community Action Treatment Teams

According to the National Institute of Mental Health (NIMH), half of all lifetime cases of mental health disorders have begun by age 14 and three quarters have begun by age 24.¹⁸ Successful transition between the children and adult systems is critical; many individuals with mental health disorders fall through the gaps between the children and adult mental health systems during a critical time in their lives.¹⁹ In 2003, the New Freedom Commission on Mental Health released a report that identified further gaps in the mental health system and recommended transforming the mental health system through community-based services to help individuals with mental illnesses live successfully in their communities.²⁰ The CAT team model is an example of a comprehensive service approach that allows young people with mental illnesses who are at risk or out-of-home placements to receive services and remain in their communities with their caregivers.²¹

To be eligible for services through a CAT team, the individual must be a child or young adult, up to 21 years old, with a mental health or co-occurring substance abuse diagnosis and specified accompanying characteristics, the requirements for which vary by age.²² If the child is less than 11 years old he or she must meet two of the following accompanying characteristics; however, individuals aged 11-21 must only meet one of the following accompanying characteristics:²³

- The individual is at-risk for out-of-home placement as demonstrated by repeated failures at less intensive levels of care;
- The individual has had two or more hospitalizations or repeated failures;
- The individual has had involvement with DJJ or multiple episodes involving law enforcement; or
- The individual has poor academic performance and/or suspensions.

¹⁶ Id.

¹⁷ Id.

¹⁸ Kessler, Berglund, Demler, Jin, Merikangas, and Walters, *Lifetime prevalence and age-of-onset distributions of DSM-IV disorders in the National Comorbidity Survey Replication*, Archives of General Psychiatry. June 2005, <https://www.ncbi.nlm.nih.gov/pubmed/15939837> (last visited February 9, 2020).

¹⁹ Maryann Davis and Bethany Hunt, *State efforts to expand transition supports for young adults receiving adult public mental health services*. Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, 2005, https://pdfs.semanticscholar.org/40ae/063ae28b3273f498eb7c7b609677b1e5be92.pdf?_ga=2.44077420.995818869.1579903552-877004500.1579903552 (last visited February 9, 2020).

²⁰ Letter from The President's New Freedom Commission on Mental Health to President George W. Bush, July 22, 2002, <http://govinfo.library.unt.edu/mentalhealthcommission/reports/FinalReport/downloads/FinalReport.pdf> (last visited February 9, 2020).

²¹ Department of Children and Families, *Community Action Team Evaluation Report*, February 1, 2014, p. 6, https://www.myflfamilies.com/service-programs/samh/publications/docs/CAT_Team_Evaluation_January_31_2014.pdf (last visited February 9 2020).

²² Id. at 2.

²³ Id.

The CAT model is an integrated service delivery approach that utilizes a team of individuals to comprehensively address the needs of the young person, and his or her family.²⁴ The CAT team includes a full-time team leader, mental health clinicians, a psychiatrist or advanced registered nurse practitioner (ARNP), a registered or licensed practical nurse, a case manager, therapeutic mentors, and support staff.²⁵ They work collaboratively to deliver the majority of behavioral health services, coordinate with other service providers when necessary, and assist the family in developing or strengthening its natural support system.²⁶

One of the differences between CAT teams and traditional mental health services is that services are provided or coordinated by the multidisciplinary team; these services are individualized and often do not fit into the standard of medical necessity, and are typically not reimbursed by Medicaid or private insurance.²⁷ The number of sessions and the frequency at which they are provided is set through collaboration rather than service limits.²⁸ In addition, the family is treated as a unit, and the CAT team addresses all family members' needs.²⁹

CAT teams provide services in the family's home or in other community locations that are convenient for the family being served. The mix of services and supports the CAT team provides to the individual and his or her family should be developmentally appropriate for the young person and serve to strengthen him or her and his or her family.³⁰ Examples of services provided by the CAT team are ³¹

Crisis Intervention and 24/7 On-call Coverage: Assists the family with crisis intervention, referrals, or supportive counseling;

Family Education: Families are educated on topics related to their treatment goals, including effective parenting skills and behavior management; and

Therapy: Provides and coordinates individual, group, and family therapy services. The type, frequency and location of therapy provided are based on their individual needs.

In addition to the services the CAT team provides, it also encourages the young person and his or her family to develop connections to natural supports³² within their own network of associates, such as friends and neighbors; through connections with the community; through service and religious organizations; and through participation in clubs and other civic activities.

Eligibility for SAMH Services

Section 394.674, F.S., establishes eligibility requirements for receiving Department-funded substance abuse and mental health services by identifying a set of priority populations. As a result, only individuals who are members of one of the priority populations are eligible to receive substance abuse and mental health services funded by the Department.

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id. at 9.

³⁰ *Supra* at note 21

³¹ *Supra* at note 21.

³² Natural supports ease the transition from formal services and provide ongoing support after discharge.

DCF states that as currently written, it is difficult to determine if a person meets eligibility requirements.³³ Additionally, the current eligibility criteria for substance abuse treatment for adults does not include adults with a substance use disorder unless they have history of intravenous drug use.

Forensic Evaluators

Forensic mental health evaluation is a form of evaluation performed by a mental health professional to provide relevant clinical and scientific data during civil or criminal proceedings. Florida's circuit courts are responsible for appointing mental health experts to conduct forensic evaluations of individuals with mental illnesses who are adjudicated incompetent to proceed of a felony offense or acquitted of a felony offense by reason of insanity. DCF is required to provide one time training for psychiatrists, psychologists, and other mental health professionals on how to conduct evaluations for criminal courts.³⁴ The training program is a three day program offered through a course provided by the Louis de la Parte Florida Mental Health Institute at the University of South Florida which focuses on competence to stand trial and sanity evaluations.³⁵ Participants learn Florida laws and rules of criminal procedure relevant to forensic evaluation, general legal principles relevant to forensic evaluation, and assessment techniques and procedures used in competency to proceed and mental state at the time of the offense evaluations,³⁶ though no specific topics are required to be covered.

Because training for forensic evaluators is only a one time requirement, mental health professionals who have completed the training can remain on the list of DCF approved evaluators for years without receiving continuing education, meaning that their initial training becomes outdated as statutes and practices change over time.³⁷

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., revising the definition of 'mental illness' to specifically exclude dementia and traumatic brain injury.

Section 2 amends s. 394.495, F.S., revising counties that must be served by a community action team to include Charlotte and Leon County. The Senate proposed budget contains funding for these new CAT teams.

Section 3 amends s. 394.656, F.S., revising the duties of and renaming the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee to the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Advisory Committee. The bill revises the membership of the committee to remove the administrator of an assisted living

³³ *Supra* at note 7.

³⁴ S. 916.111, F.S.

³⁵ Department of Children and Families, *Forensic Evaluator Training and the Importance of Appointing Approved Forensic Evaluators as Experts*, <https://www.myflfamilies.com/service-programs/samh/adult-forensic-mental-health/forensic-evaluator-training-and-importance-appointing-approved-forensic-evaluators-experts.shtml> (last visited February 9, 2020).

³⁶ *Id.*

³⁷ *Supra* at note 35.

facility that holds a limited mental health license; add the Florida Behavioral Health Association, to reflect the merger of the Florida Alcohol and Drug Abuse Association with the Florida Council for Community Mental Health.

The bill allows county consortiums to apply for a 1-year planning or 3-year implementation or expansion grant. The bill allows a county planning council or committee to designate the county sheriff or local law enforcement agency to apply for a grant on behalf of the county.

The bill removes the ability of the committee to participate in the development of criteria used to review grants and in the selection of grant recipients. Instead, DCF, in collaboration with the Department of Corrections, the Department of Juvenile Justice, the Department of Elder Affairs, the Office of the State Courts Administrator, and the Department of Veterans' Affairs must establish criteria used to review applications and select the county that will be awarded a 1-year planning grant or a 3-year implementation or expansion grant.

Section 4 amends s. 394.657, F.S., conforming changes to the name of the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee to changes made by the bill.

Section 5 amends s. 394.658, F.S., to align with the changes made in s. 394.656, F.S., which limits the grant review and selection responsibilities to the six state agencies. Specifically, this section is revised to require the Department, in collaboration with the Department of Corrections, the Department of Juvenile Justice, the Department of Elder Affairs, the Office of the State Courts Administrator, and the Department of Veterans' Affairs to establish criteria to be used to review grant applications and select grant recipients.

Section 6 amends s. 394.674, F.S., modifying the determination of eligibility for individuals with serious behavioral health conditions who do not have the financial means to access services. Specifically, the revisions to this section modify eligibility for DCF-funded mental health and substance abuse services by setting forth a definition for eligibility based on diagnoses, level of functioning, and financial need, rather than one based on priority populations.

The bill also amends s. 394.908, F.S., to replace the term "priority population" with "individuals who meet eligibility requirements."

Section 7 amends s. 394.908, F.S., to conform with the changes to terminology made to s. 394.674, F.S., by the bill.

Section 8 amends s. 397.321, F.S., by removing the requirement that DCF develop a certification process by rule for prevention coalitions. As a result, prevention coalitions would no longer be subject to a certification process.

Section 9 amends s. 397.99, F.S., allowing managing entities, rather than DCF, to use a competitive solicitation process to review grant applications for the school substance abuse prevention partnership grant program.

Section 10 amends s. 916.111, F.S., requiring court-appointed forensic evaluators to take a refresher training on conducting forensic evaluations. The refresher training would include forensic statutory requirements, recent changes to statute, Florida trends and concerns related to forensic commitments, alternatives to maximum security treatment facilities, community forensic treatment providers, evaluation requirements, and forensic service array updates.

Section 11 amends s. 916.115, F.S., requiring the refresher training required by the bill to be completed every three years.

Section 12 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

DCF estimates that the refresher training required for court-appointed forensic evaluators will create a positive fiscal impact for providers of the training and will negatively impact the evaluators required to take the training. The fiscal impact to providers and evaluators is indeterminate.

C. Government Sector Impact:

DCF estimates that recurring General Revenue needed to fund the addition of CAT teams in Charlotte and Leon counties is \$1.5 million.³⁸ The Senate proposed budget contains funding for these new CAT teams.

The Office of the State Court Administrator (OCSA) anticipates that the bill will not impact judicial or court workloads.³⁹ OCSA predicts that the number of experts appointed would not change because of the bill; although the bill could reduce the list of available experts due to some experts not completing the newly required refresher training every three years, it is not anticipated that any such reduction would be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.455, 394.495, 394.656, 394.657, 394.658, 394.674, 394.908, 397.321, 397.99, 916.111, and 916.115 of the Florida Statutes.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³⁸ *Supra* at note 7.

³⁹ Office of the State Court Administrator, Agency Bill Analysis for 2020 SB 1678, February 9, 2020. On file with the Senate Children, Families, and Elder Affairs Committee.