

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 358

SPONSOR: Committee on Children and Families

SUBJECT: Substance Abuse and Mental Health

DATE: January 10, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 358 includes statutory definitions for adults with or at risk of serious mental illness or substance abuse problems and persons experiencing an acute mental or emotional crisis or an acute substance abuse crisis and includes revisions to the law governing the comprehensive substance abuse and mental health services systems. The department is directed to adopt rules to implement clinical eligibility and fee collection requirements for publicly funded substance abuse and mental health services that would include a sliding-fee scale for persons who have a net family income at or above 150 percent of the Federal Poverty Income Guidelines.

Persons in crisis, persons with serious mental illness, and persons with substance abuse problems would have priority for accessing treatment and support services financed by the Department of Children and Family Services. An amount equivalent to 50 percent of the local matching funds expended in the form of cash or in-kind match from boards of county commissioners during the fiscal year may be spent by that county during the next fiscal year on substance abuse and mental health services for persons with less serious problems and persons at risk of problems.

The district health and human services boards are directed to assume the role vacated by the planning councils in 1994 of preparing a combined district substance abuse and mental health plan that would describe the publicly financed system of care and identify statutorily defined populations, their service needs, and the resources available and required to meet those needs. The bill strengthens the integration of district substance abuse and mental health services with other local systems such as juvenile justice, child protection, and health care. District plans must include provisions for clients receiving treatment services in the community to access the most recently developed psychiatric medications, the development of community-based independent housing units and supported employment services, integrating treatment programs for persons with co-occurring disorders, and serving adults with serious mental illness residing in assisted living facilities.

The Department of Children and Family Services must prepare a master plan every 3 years with annual updates for implementing a publicly funded community-based system of care for substance abuse and mental health services. The plan would include policies and planning parameters for driving the district substance abuse and mental health plan. The plan must be submitted to the Legislature; the initial plan must include an assessment of the clinical practice guidelines and standards for community-based treatment services delivered by agencies under contract with the Department of Children and Family Services.

The bill directs the Department of Children and Family Services to submit a report to the Legislature by July 1 of each year, describing the status of compliance by contract substance abuse and mental health providers with the performance outcome standards established by the Legislature.

This bill substantially amends sections 394.455, 394.65, 394.66, 394.67, 394.675, 394.75, and creates sections 394.674 and 394.676, of the Florida Statutes.

II. Present Situation:

Florida's Community Alcohol, Drug Abuse, and Mental Health Services System

Part IV of ch. 394, F.S., is known as "The Community Alcohol, Drug Abuse, and Mental Health Services Act" and includes provisions for planning, defining, operating, financing, contracting, and managing the district alcohol, drug abuse, and mental health (ADM) service delivery system. These community-based services are administered by the Alcohol, Drug Abuse, and Mental Health Program Office and 15 district ADM offices within the Department of Children and Family Services (department). Services are delivered by private nonprofit service providers under contract with each district ADM office. Local governments provide matching funds for a portion of the budget. The department contracts with 280 private for-profit and not-for-profit providers (mental health centers, substance abuse treatment and prevention centers, public and private psychiatric hospitals, and private mental health professionals) that deliver a variety of services.

The FY 1999-2000 legislative appropriation (general revenue and federal trust funds) to the department for community ADM services was approximately \$462 million. In addition to these appropriated funds, it is estimated by the Agency for Health Care Administration that Medicaid expenditures for community ADM services for FY 1999-2000 will be approximately \$230 million. Medicaid is a federal/state health insurance entitlement program administered by the Agency for Health Care Administration which provides payment for certain mental health and substance abuse services to approved providers for enrolled eligible children, adolescents, and adults.

Currently, the contract providers serve a broad population of children, adolescents, and adults with alcohol, drug abuse, and mental health problems. Current laws provide little guidance for prioritizing services and directing Florida's policy makers on the spending of limited state resources. The lack of specific parameters to define who needs and who gets services within scarce resources has created a system where the demand for services is much greater than the supply of services to meet the need. Based on needs assessment information and nationally recognized prevalence rates, the department estimates that Florida's publicly funded mental health system is currently meeting approximately 21 percent of the treatment needs of children and 12

percent of the treatment needs of adults. For persons needing substance abuse treatment, Florida's publicly funded system is currently meeting approximately 22.7 percent of the treatment needs of children and 16.4 percent of the treatment needs of adults.

Client Population Groups and Comprehensive System of Treatment Services

The populations served with state and federal funds are delineated in the section of law requiring district alcohol, drug abuse, and mental health plans, s. 394.75(4), F.S., and include chronic public inebriates, marginally functional alcoholics, chronic opiate abusers, poly-drug abusers, chronically mentally ill individuals, acutely mentally ill individuals, severely emotionally disturbed children and adolescents, elderly persons at high risk of institutionalization, and individuals returned to the community from a state mental health treatment facility. Many of these client terms are no longer used. They were statutorily created in 1984 (ch. 84-285, L.O.F.) and there have been no revisions to the population groups even though the substance abuse treatment law (ch. 397, F.S.) was substantially rewritten in 1993 (ch. 93-39, L.O.F.) and the child/adolescent mental health law was substantially rewritten in 1998 (ch. 98-05, L.O.F.).

The department no longer requires the service districts to complete district plans since section 19 of ch. 92-58, L.O.F., repealed s. 394.715, F.S., on July 30, 1994, eliminating the district ADM planning councils without specifying the local body to assume their district planning duties. Section 394.75, F.S., was not revised at that time and a district ADM plan is still required.

Section 394.492, F.S., (created in ch. 98-05, L.O.F.) includes definitions for a child or adolescent with "a serious emotional disturbance," "an emotional disturbance," "at risk of an emotional disturbance," or "experiencing an acute mental or emotional crisis." Section 397.93, F.S., (created in ch. 99-396, L.O.F.) includes definitions for children with substance abuse problems and at risk of substance abuse. There are no comparable definitions in law for adults with serious mental illness or adults with substance abuse problems.

Section 394.675, F.S., defines the system of alcohol, drug abuse, and mental health services that are purchased with state and federal funds. Those services are categorized as primary care services (emergency stabilization, detoxification, inpatient, residential, and case management); rehabilitative services (outpatient, day treatment, and partial hospitalization); and preventive services (consultation, public education, and prevention). These service categories were statutorily created in 1984 (ch. 84-285, L.O.F.) and have not been revised. Many of the treatment modalities and support services proven effective for persons with serious mental illness and substance abuse problems are not included in these definitions such as assertive community treatment, mobile crisis response teams, drop-in or self-help centers, supported housing, or supported employment.

Collection of Fees From Families

Section 394.74(3)(c), F.S., includes a provision for providers of mental health and substance abuse services to make every reasonable effort to collect fees from persons who are able to pay for services. Contracts with providers include a statement that the provider agrees to develop a fee schedule and a fee collection policy based on income and family size that must be approved by the department.

Section 394.493(2), F.S., requires that each mental health provider under contract with the department to provide mental health services to children and adolescents with an emotional disturbance or serious emotional disturbance collect fees from the parent or legal guardian of the child or adolescent receiving services. These fees are based on a sliding fee scale for families whose net family income is between 100 percent and 200 percent of the Federal Poverty Income Guidelines. A family whose net family income is 200 percent or more above the Federal Poverty Income Guidelines is responsible for paying the cost of services.

Performance-Based Budgeting (PB²)

HB 4201 (General Appropriations Act for FY 1998-99) included performance outcome and output measures for children and adults with mental health and substance abuse problems. Those measures are indicators used by the Legislature to assess the performance of mental health and substance abuse programs and services for which the department contracts with community-based non-profit provider agencies. According to data from the department for FY 1998-99, the standards for two outcome measures (days spent in the community and average functional level) for adults with serious mental illness were not achieved when using the statewide average scores. The current performance outcome and output measures may not adequately determine the effectiveness of treatment services delivered by contract providers.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) recently completed a justification review of the Alcohol, Drug Abuse, and Mental Health Program. That review states that using statewide performance standards in provider contracts may not provide the district ADM staff with useful information about the performance of certain providers. All providers are held to the same standards even though there are differences in the characteristics of clients that the providers serve. The OPPAGA report also states that the lack of intermediate and process measures in the ADM program to effectively assess an individual provider's performance is a weakness in the program's accountability system. The review recommends that the department modify monitoring activities to focus on clinical practices as well as administrative and compliance issues to determine effects of services on clients.

III. Effect of Proposed Changes:

Client Population Groups and Comprehensive System of Treatment and Support Services

Legislative intent is amended in s. 394.66, F.S., to recognize that mental illness and substance abuse are diseases responsive to medical and psychological interventions and to emphasize the provision of treatment and support services to persons with mental health and substance abuse needs through a community-based system of care. The bill stresses the importance of integrating and coordinating treatment services with other local systems such as criminal justice, school districts, public health, and organizations or groups focusing on services to older adults.

The bill amends s. 394.67, F.S., by defining "adult with a serious mental illness," "adult with substance abuse impairment," "person experiencing an acute mental or emotional crisis," "person experiencing an acute substance abuse crisis," "adult at risk of mental illness," and "adult at risk of substance abuse impairment" and by creating definitions for "crisis services," "mental health services," and "substance abuse services." The department reports that because these definitions

are consistent with the target population groups currently being served by the department, all client groups will continue to receive treatment services.

Section 394.674, F.S., is created establishing clinical eligibility and fee collection requirements for publicly funded substance abuse and mental health services.

Crisis services which are defined in s. 394.67(21), F.S., must be available within the limitations of available state and local matching funds to the following persons:

- persons experiencing an acute mental or emotional crisis based upon an assessment completed by a mental health professional or a person under the supervision of a professional as specified in s. 394.674(1)(a), F.S., and
- persons experiencing a substance abuse crisis based upon an assessment by a qualified substance abuse professional as specified in s. 394.674(1)(a), F.S.

Mental health services which are defined in s. 394.67(27), F.S., must be available within the limitations of available state and local matching funds to the following persons:

- children and adolescents with an emotional disturbance or a serious emotional disturbance based upon an assessment by a mental health professional or a person under the supervision of a professional as defined in s. 394.495, F.S., and
- adults with a serious mental illness based upon an assessment by a mental health professional or a person under the supervision of a professional as defined in s. 394.674(1)(b), F.S.

Substance abuse services which are defined in s. 394.67(30), F.S., must be available within the limitations of available state and local matching funds to the following persons:

- children or adolescents with a substance abuse problem based upon an assessment by a qualified substance abuse professional or a person under the supervision of a qualified professional as defined in s. 394.674(1)(c), F.S., and
- adults with a substance abuse impairment based upon an assessment by a qualified substance abuse professional or a person under the supervision of a qualified professional as defined in s. 394.674(1)(c), F.S.

Persons experiencing a crisis will receive services regardless of their ability to pay which is consistent with current law. Persons receiving mental health, substance abuse, or crisis services who are at or above 150 percent of the Federal Poverty Income Guidelines must pay a portion of the cost for these services based upon a sliding fee scale. Current ADM provider contracts require that the provider develop a fee schedule and fee collection policy based on income and family size that must be approved by the department but does not specify the level of Federal Poverty Income Guidelines. Persons who are in crisis and meet the criteria for an involuntary examination under the Baker Act, pursuant to s. 394.463(1), F.S., or meet the involuntary admission criteria for

substance abuse services under s. 397.675, F.S., would be exempt from paying a fee. Also, the nature and extent of the person's crisis situation may exempt him or her from paying a fee.

The bill directs the department to develop administrative rules for implementing clinical eligibility and fee collection requirements. The rule must require that each provider under contract with the department develop a sliding fee scale for persons who have a net family income at or above 150 percent of the Federal Poverty Income Guidelines unless otherwise required by state or federal law. The sliding fee scale must use the uniform schedule of discounts by which a provider under contract with the department discounts its established client charges for services supported by state, federal, or local funds and must use factors such as family income, financial assets, and family size as declared by the person or the persons' guardian. The rule must include uniform criteria to be used by the service providers in developing the schedule of discounts for the sliding fee scale. The rule must address the most expensive types of treatment such as residential and inpatient care and must make it reasonable and practical for a family to contribute to the costs of treatment but not jeopardize the family's financial stability. Persons who are not eligible for Medicaid and whose net family income is less than 150 percent of the Federal Poverty Income Guidelines must pay a portion of his or her treatment which is comparable to the copayment required by the Medicaid program under s. 409.212, F.S.

The bill states that an amount equivalent to 50 percent of the local matching funds expended in the form of cash or in-kind match from boards of county commissioners as required in s. 394.76(3)(b), F.S., during any fiscal year, may be spent by that county during the next fiscal year on special local needs for substance abuse and mental health services. Under this provision, children, adolescents, and adults whose mental illness, emotional disturbance or substance abuse problem does not meet the clinical criteria in s. 394.675(1), F.S., or those at risk of mental illness, emotional disturbances, or substance abuse problems as defined in s. 394.67, F.S., may be served. The board of county commissioners or its representatives and local stakeholders must be included in the local planning body for determining the clients groups and the treatment and support services.

The department must describe in the district substance abuse and mental health plans the treatment and support services provided to all populations and must adopt rules specifying the local planning process for determining the special client groups and for defining the services to be provided.

The bill amends s. 394.675, F.S., by deleting the current service categories "primary care," "rehabilitative," and "preventive" that comprise the system of comprehensive substance abuse and mental health services and adding "crisis services," "substance abuse services," and "mental health services." Each service is defined in s. 394.67, F.S., and includes the most current treatment modalities and support services that help persons recover from mental illness, emotional disturbances, and addictive disorders and maintain stabilization in the community.

Section 394.676, F.S., is created authorizing the Indigent Psychiatric Medication Program within legislative appropriations. The department is directed to adopt rules for the program that identifies clients who may receive services, the process for identifying drugs, and criteria for community-based mental health providers to receive funds under the program.

Section 394.75, F.S., is amended directing the district health and human services board to prepare the biennial district substance abuse and mental health plan. The plan must describe the district's client populations and the system of care financed with public funds; must address the means for meeting the needs of the district's eligible clients pursuant to s. 394.674, F.S., and s. 394.675, F.S.; and must provide a process for involving clients, services providers, and other stake-holders in the coordination and delivery of the community-based system of care.

The bill deletes the list of somewhat obsolete terms in s. 394.75(4), F.S. The bill requires that the continuum of services specified in each district plan include: maximizing client access to the most recently developed psychiatric medications approved by the Federal Drug Administration, the development of independent housing units through participation in the United States Department of Housing and Urban Development's Section 811 program, the development of supported employment services through the Division of Vocational Rehabilitation in Florida's Department of Labor and Employment Security, treatment services to persons with co-occurring mental illness and substance abuse problems, and services to adults with a serious mental illness who reside in assisted living facilities.

The bill also requires that a subcommittee be established in each district to prepare the portion of the district plan relating to adult mental health and substance abuse that must include representatives from the community with an interest in treatment for adults. Current law requires that a subcommittee be established to prepare the portion of the district plan relating to children and adolescents. The bill clarifies that this existing subcommittee must address both mental health and substance abuse treatment needs for children and adolescents in the district.

The bill requires input in developing the district plan from community-based persons and organizations interested in substance abuse and mental health, local government entities contributing funds to the public system, consumers of services, and family members.

The bill directs the department to prepare a master plan every 3 years for implementing a publicly funded community-based integrated system of care for mental health and substance abuse services throughout Florida which would include statewide policies and planning parameters used by the health and human services boards in the preparation of the district substance abuse and mental health plans. The master plan must identify strategies for meeting the treatment and support needs of children, adolescents, adults, and older adults with or at risk of mental illness, emotional disturbances, or substance abuse problems as defined in ch. 394 and ch. 397. The plan must be updated annually and must involve input from persons who represent local communities and stakeholders interested in mental health and substance abuse services. The plan and annual updates would be submitted to the President of the Senate and Speaker of the House of Representatives on January 1 of each year, beginning January 1, 2001.

The initial master plan would include an assessment of the clinical practice guidelines and standards for community-based mental health and substance abuse services delivered by agencies under contract with the department and propose department policy changes or statutory revisions to strengthen the quality of mental health and substance abuse treatment and support services.

Annual Report on Performance-Based Budgeting

The bill directs the department to submit a report to the Legislature by July 1 of each year describing the status of compliance with the performance outcome standards established by the Legislature. The report would discuss compliance of substance abuse and mental health providers under contract with the Department of Children and Family Services with the annual performance standards specified in their contracts.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The sliding fee scale will result in the collection of fees from persons whose net family income is at or above 150 percent of the Federal Poverty Income Guidelines. A co-payment will be required from persons whose net family income is below 150 percent of the guidelines.

In order for community substance abuse and mental health providers under contract with the department to apply for federal grants for supported housing and supported employment services, general revenue funds allocated to them must be used to match federal funds. This would not be an additional cost to the provider but could require a redirection of existing general revenue funds from a current service. That redirection of general revenue could result in a reduction of an existing service in order to increase supported housing and supported employment.

C. Government Sector Impact:

For counties that match funds as required in s. 394.76(3)(b), F.S., the bill enables them to spend an amount equivalent to 50 percent of their local matching funds expended in the form

of cash or in-kind match from their boards of county commissioners during the next fiscal year on special local needs for substance abuse and mental health services.

The bill specifies that treatment services are provided within the limitations of available state and local matching resources. The provisions in the bill that could result in the shifting of district or provider resources include: maximizing client access to the most recently developed psychiatric medications, integrating services for persons with co-occurring disorders, and including treatment and support services to persons with serious mental illness who reside in assisted living facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The provisions of this bill reflect the recommendations made in the interim project report, *Defining Publicly Funded Mental Health and Substance Abuse Services and Priority Population Groups*.

The Surgeon General's Report on Mental Health, released in December, 1999, confirms the findings of the Senate interim report that effective treatments and service delivery strategies exist for many mental disorders. It is a combination of safe and potent medications and psychosocial interventions, typically used in combination, that allow professionals to effectively treat most mental disorders.

VIII. Amendments:

None.