

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill seeks to insure individuals have adequate choices of residential setting and services when institutions for persons with developmental disabilities are closed or their populations significantly reduced.

Empower Families: The bill requires the Agency for Persons with Developmental Disabilities to ensure residents and their families, are informed and receive adequate services as they go through a difficult transition in their lives when the institutions where they live and receive care are closed or significantly reduced in population.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 127 requires the Agency for Persons with Disabilities to provide a detailed plan for any closure or significant reduction of census at the Mariana Sunland or Tacachale institutions for persons with developmental disabilities.

The bill requires the agency to notify residents and their families or guardians of the intended closure or reduction and to ensure they receive a choice of adequate services after leaving the institution.

The bill specifies that the plan include how the agency will address:

- education of residents and their families or guardians about placement opportunities;
- adequate services in the community;
- the capacity of providers in the community to meet need for services;
- recruitment of providers to insure adequate capacity;
- the process for support plan development;
- staffing levels at the institutions as they are closed or reduced;
- the timeline for closure or reduction;
- the responsibilities of each agency involved; and
- other issues

The bill requires the Governor to approve or disapprove the closure or reduction after receiving the plan report and comments from the Speaker of the House and President of the Senate.

The bill requires quarterly reports by the agency on the process or closure or reduction.

PRESENT SITUATION

Florida Statute 393.062 states that "The Legislature finds and declares that existing state programs for the treatment of individuals with developmental disabilities, which often unnecessarily place clients in institutions, are unreasonably costly, are ineffective in bringing the individual client to his or her maximum potential, and are in fact debilitating to many clients"

The Office of Program Policy Analysis and Government Accountability (OPPAGA) of the Florida Legislature conducted a review of the Developmental Disabilities Program in 2000 (Report No: 00 -17). The report found "Many clients who currently live in state institutions and private intermediate care facilities could be appropriately served in less costly settings, saving about \$35 million per year. Closing one or more of the state institutions could save another \$4 million annually, although some investment in community-based services would be needed to expand services for these clients."

The closure of Landmark in Miami-Dade County in 2005, and the planned closure of Gulf Coast Center by 2010, are part of the agency's 1998 settlement agreement in the federal Brown v. Bush lawsuit initiated by the Advocacy Center for Persons with Disabilities. The Governor's Office and the Legislature were active participants in all stages of the litigation, decision making, and final resolution. Currently, there are no plans to close the two remaining developmental disabilities institutions, Sunland, located in Marianna, and Tacachale, located in Gainesville.

Medicaid regulations and agency rules and policy already provide for client choice. Title 42 U.S.C.1396n(c), gives residents the right to choose the treatment setting. The closure of an institution does not obligate an individual or guardian or other legally authorized representative to choose a home and community-based waiver placement if the individual, in fact, wants an institutional placement. In addition, federal law, 42 C.F.R. 431.220, provides that an individual retains the right to challenge placement decisions through the fair hearing process.

To ensure the health and safety of residents, the agency states that it has developed steps to accomplish the closure of Gulf Coast Center in an appropriate and effective manner. Fiscal oversight for the closure of Gulf Coast Center and the downsizing of the census in the remaining developmental disabilities institutions is managed through the budget process. The agency cannot implement plans to close or significantly reduce the population of a developmental disabilities institution without thorough review, and approval by the Governor and Legislature.

C. SECTION DIRECTORY:

Section 1. Creates section 393.35, Florida Statutes, regarding closure of developmental disabilities institutions.

Section 2. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The agency may experience minimal costs associated with the notification requirements contained in the bill, as well as cost associated with the monthly reporting requirements.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 20, 2007, the Committee on Healthy Families adopted a "strike-all" amendment by the bill sponsor that is traveling with the bill and voted the bill favorably.

The amendment addresses issues identified in the bill analysis and does the following:

- Limits requirements of the bill to closures and reductions of more than 10 percent of residents in an institution.
- Removes required maintenance of effort funding level.
- Removes creation of the Family Advisory Council.
- Removes the retroactive effect of the bill.

The amendment also adds language to require monthly reports on phase down of the Gulf Coast Center and requires a feasibility study of an alternate facility.

On April 17, 2007, the Healthcare Council adopted a substitute amendment to the strike-all amendment traveling with the bill and voted the bill favorably as a council substitute as amended.

The amendment included the following changes in the bill as amended.

- It specifically names the two institutions whose closure or census reduction is addressed by the bill.
- It increased the criteria for application of the bill to census reduction to 20% of population from 10%.
- It removes the Cabinet from the hearing and approval process and provides that the Governor shall approve or disapprove the closure or reduction after receiving comments from the Speaker of the House and President of the Senate.
- It requires the agency to provide a report regarding plans for closure or reduction with information about specific requirements.
- It requires a quarterly report with specified information on the closure or reduction process.

The bill analysis is drafted to the council substitute.