

SB 520 by **Grimsley**; (Identical to H 0221) Long-term Care Insurance

SB 1144 by **Simpson**; (Identical to H 1193) Services for Veterans and Their Families

SB 1340 by **Latvala**; (Similar to H 1017) Mental Health and Substance Abuse

345708 D S CF, Garcia Delete everything after 03/18 11:15 AM

SB 1462 by **Bradley**; (Compare to CS/H 0079) Behavioral Health Services

239130 D S CF, Detert Delete everything after 03/18 10:17 AM

SB 1500 by **Latvala**; (Compare to H 0379) Housing for the Homeless

862688 D S CF, Ring Delete everything after 03/18 01:28 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS
Senator Sobel, Chair
Senator Altman, Vice Chair

MEETING DATE: Thursday, March 19, 2015
TIME: 1:00 —3:00 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Sobel, Chair; Senator Altman, Vice Chair; Senators Dean, Detert, Garcia, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 520 Grimsley (Identical H 221)	Long-term Care Insurance; Providing additional forms for the mandatory offer of nonforfeiture benefits in long-term care insurance policies, etc. BI 02/17/2015 Favorable CF 03/19/2015 FP	
2	SB 1144 Simpson (Identical H 1193)	Services for Veterans and Their Families; Requiring the Department of Children and Families to establish the Florida Veterans' Care Coordination Program; providing goals of the program; requiring the designation of implementation teams; providing a list of required services, etc. CF 03/19/2015 MS AP	
3	SB 1340 Latvala (Similar H 1017)	Mental Health and Substance Abuse; Authorizing a family member of a patient or an interested party to petition a court for the appointment of a guardian advocate; establishing the Substance Abuse Assistance Pilot Program within the Department of Children and Families; authorizing an adult with capacity to execute a mental health or substance abuse treatment advance directive; prohibiting criminal prosecution of a health care facility, provider, or surrogate who acts pursuant to a mental health or substance abuse treatment decision, etc. CF 03/12/2015 Not Considered CF 03/19/2015 AHS AP	

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs
 Thursday, March 19, 2015, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1462 Bradley (Compare CS/H 79, H 1005, H 1277, S 1338, S 1452)	Behavioral Health Services; Authorizing counties to fund treatment-based mental health court programs; requiring a judge presiding over a postadjudicatory treatment-based mental health court program to hear a violation of probation or community control under certain circumstances; requiring the department to establish specified standards and protocols with respect to the administration of the crisis stabilization services utilization database; requiring the Agency for Health Care Administration to submit a federal waiver or Medicaid state plan amendment for the provision of health homes; specifying conditions for the health home program, etc. CF 03/19/2015 AHS AP	
5	SB 1500 Latvala (Compare H 379)	Housing for the Homeless; Requiring that the reservation of funds within each notice of fund availability to persons who are homeless and persons with special needs be at least 10 percent of the funds available at the time of the notice; directing the Council on Homelessness to develop a statewide Management Information System and requiring future participation of certain award or grant recipients; requiring the corporation to first distribute a certain percentage of the total amount to be distributed each fiscal year from the Local Government Housing Trust Fund to the Department of Children and Families, subject to certain requirements; requiring that funds made available to the state from the National Housing Trust Fund be deposited into the State Housing Trust Fund and be used for certain purposes, etc. CF 03/19/2015 ATD AP	
TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
Secretary of Children and Families			
6	Carroll, Mike (Safety Harbor)	Pleasure of Governor	
Director, Agency for Persons with Disabilities			
7	Palmer, Barbara Jo (Tallahassee)	Pleasure of Governor	

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 520

INTRODUCER: Senator Grimsley

SUBJECT: Long-term Care Insurance

DATE: March 16, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<u>Favorable</u>
2.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 520 allows an insurer to offer a nonforfeiture provision in a long-term care insurance policy that returns premium if the insured dies or the policy is completely surrendered or cancelled. The bill is not expected to have a fiscal impact on the state and has an effective date of July 1, 2015.

II. Present Situation:

Nonforfeiture Provision in Long-term Care Insurance Policies

A long-term care insurance policy is defined in law as:

Any insurance policy or rider ... designed to provide coverage on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital.¹

A long-term insurance policy may not be cancelled, nonrenewed, or terminated because of the age or health of the policyholder.² Policies may only be cancelled on a statewide basis if authorized by the Office of Insurance Regulation (OIR) because renewal would jeopardize the insurer's solvency or that the insurer's loss experience is substantial, unexpected, and cannot reasonably be mitigated or remedied. A long-term care policy may also be cancelled for nonpayment of premium. The policyholder must be provided a grace period of at least 30 days to pay premium.³ The insurer must also, after the expiration of the grace period, provide at least 30-days written notice to the policyholder and a specified secondary addressee that coverage may lapse.⁴

¹ Section 627.9404(1), F.S.

² Section 627.9407(3)(a), F.S.

³ Section 627.94073(1), F.S.

⁴ Section 627.94073(2), F.S.

Insurers who offer long-term care policies must offer a nonforfeiture protection provision providing reduced paid-up insurance, extended term, shortened benefit period, or any other benefits approved by the OIR.⁵ For example, the nonforfeiture benefit may entitle the policyholder to receive policy benefits for a reduced period of time or receive fewer benefits. The policyholder has the option to purchase a nonforfeiture benefit for an additional premium, but is not required to do so.

Since the passage of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), qualified long-term care insurance contract premiums may be included as a deductible medical expense on Schedule A of IRS Form 1040.⁶ A long-term care insurance contract does not qualify for preferred tax treatment unless any refund of premium is applied as a reduction in future premium or to increase future benefits.⁷ A premium refund may be made under HIPAA; however, on the death of the insured or the complete surrender or cancellation of the contract.⁸ At the time HIPAA was passed, Florida law did not restrict the return of premium to the death or complete surrender of the long term care contract.⁹ After the passage of HIPAA, Florida law was amended in 1997 to eliminate the return of premium as an available nonforfeiture protection.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 627.94072, F.S. Current law requires insurers of long-term care policies to offer a nonforfeiture protection provision. The bill specifies that an insurer may offer a nonforfeiture provision in a long-term care insurance policy in the form of a return of premium in the event of the insured's death, or surrender or cancellation of the policy. The return of a premium is not currently identified as a benefit in a nonforfeiture provision. This change adds an additional option to nonforfeiture provisions.

Section 2 of the bill provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁵ Section 627.94072(2), F.S.

⁶ See IRS Publication 502 (2014), Medical and Dental Expenses <http://www.irs.gov/publications/p502/index.html> (accessed on February 2, 2015).

⁷ 26 U.S.C. s. 7702B(b)(1)(E)

⁸ 26 U.S.C. s. 7702B(b)(2)(C)

⁹ See s. 19, ch. 97-179, L.O.F.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.94072 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.

By Senator Grimsley

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A bill to be entitled

An act relating to long-term care insurance; amending s. 627.94072, F.S.; providing additional forms for the mandatory offer of nonforfeiture benefits in long-term care insurance policies; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 627.94072, Florida Statutes, is amended to read:

627.94072 Mandatory offers.—

(2) An insurer that offers a long-term care insurance policy, certificate, or rider in this state must offer a nonforfeiture protection provision providing reduced paid-up insurance, extended term, shortened benefit period, or any other benefits approved by the office if all or part of a premium is not paid. A nonforfeiture protection provision may be offered in the form of a return of premium upon the death of the insured or upon the complete surrender or cancellation of the policy or contract. Nonforfeiture benefits and any additional premium for such benefits must be computed in an actuarially sound manner, using a methodology that ~~is has been~~ filed with and approved by the office.

Section 2. This act shall take effect July 1, 2015.

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 1144

INTRODUCER: Senator Simpson

SUBJECT: Services for Veterans and Their Families

DATE: March 16, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>MS</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1144 establishes the Florida Veterans' Care Coordination Program within the Department of Children and Families (DCF), to provide veterans and their families with behavioral health information and referral services. Behavioral health includes services for both mental health and substance abuse. The new program will be delivered through the Florida's 211 Network and is based on a pilot project in central Florida. The bill has an appropriation of \$2 million for the program and has an effective date of July 1, 2015.

II. Present Situation:

Florida 211 Network

Many health and human services are available to the citizens of Florida. However, sometimes individuals are not aware of the available services. After the success of implementing 911 systems to obtain emergency assistance, communities began 211 networks for helping individuals obtain services. A 211 network is a telephone based service offered by nonprofit and public agencies throughout Florida and the United States. The 211 organizations provide free, confidential information and referral services (I&R). Trained professionals are available 24 hours a day, 7 days a week, to help callers identify and connect with health and human service programs that can meet a variety of needs including food, housing, employment, health care, crisis counseling and more. Services are available statewide through any cell phone provider as well as through landlines in 58 of Florida's 67 counties.¹

At the community level, I&R services can also facilitate long-range planning by tracking requests for service and identifying gaps and duplications in services. Information and referral services also work with other human service organizations to make them a better resource for their clients. Professional information and referral specialists help people understand their problems and make informed decisions about possible solutions.² They may advocate on behalf

¹ Florida Alliance of Information and Referral Services website, <http://flairs.org/index.htm>, (last visited Mar. 15, 2015).

² *Id.*

of those who need special support and reinforce the individual's capacity for self-reliance and self-determination through education, affirmation, collaborative planning and problem solving.

Section 408.918, F.S., establishes the Florida 211 Network and specifies certain requirements. The law requires that 211 providers must be fully accredited by the National Alliance of Information and Referral Services or be approved to operate by Florida Alliance of Information and Referral Services. The law also designated the Florida Alliance of Information and Referral Services as the state's 211 collaborative organization. The organization is responsible for designing, implementing, and coordinating the state's 211 providers. The purpose of this organization is to: 1) provide a state-wide mutual assistance network through educational and training opportunities among its membership pertaining to the delivery of information and referral and crisis support services, and 2) act as the Florida affiliate of the Alliance of Information and Referral Services in shaping, informing, and carrying out the national alliance's mission at the local and statewide levels to support the information and referral profession. The members of the alliance include representatives from general I&R's; specialized I&R's, such as elder helplines, child care resource and referral providers; crisis hotlines; and others who provide information services. The Florida alliance serves as the statewide mutual assistance network for its members. It also serves as the I&R education source.

Care for Veterans

A person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable may qualify for veterans' affairs (VA) health care benefits. Reservists and National Guard members may also qualify for VA health care benefits if they were called to active duty by a federal order and completed the full period for which they were called or ordered to active duty.³ VA health benefits include all the necessary inpatient hospital care and outpatient services to promote, preserve, or restore a veteran's health. VA medical facilities provide a wide range of services including traditional hospital-based services such as surgery, critical care, mental health, orthopedics, pharmacy, radiology and physical therapy. VA provides specialty inpatient and outpatient mental health services at its medical centers and community-based outpatient clinics, in addition, readjustment counseling services may be available at veteran centers across the nation.⁴ The goal is to support recovery and enable veterans who experience mental health problems to live meaningful lives in their communities and to achieve their full potential.

In 1988, Florida citizens endorsed a constitutional amendment to create the Florida Department of Veterans' Affairs as a separate agency charged with providing advocacy and representation for Florida's veterans and to intercede on their behalf with the U.S. Department of Veterans Affairs.⁵ The department assists veterans with their federal benefits, improves the quality of life for veterans with service-connected disabilities, and provides access to federally funded medical care for eligible veterans. The department reports that there are more than 1.5 million veterans in Florida.

³ U.S. Department of Veterans Affairs, *Federal Benefits for Veterans, Dependents and Survivors*, (last updated November 11, 2014) http://www.va.gov/opa/publications/benefits_book/benefits_chap01.asp, (last visited Mar. 16, 2015).

⁴ U.S. Department of Veterans Affairs, *Health Benefits*, (updated June 23, 2014) http://www.va.gov/HEALTHBENEFITS/access/medical_benefits_package.asp, (last visited Mar. 16, 2015).

⁵ Florida Department of Veterans Affairs website, <http://floridavets.org/about-us/>, (last visited Mar. 16, 2015).

The 2014 Florida Legislature appropriated \$150,000 to the Department of Veterans' Affairs to create a pilot project expanding existing 211 services to veterans in Hillsborough, Pasco, Pinellas, Polk and Manatee counties.⁶ In August 2014, the Crisis Center of Tampa Bay expanded services to veterans and to date has served 98 veterans through care coordination. Veterans in care coordination receive ongoing suicide assessment, continuous safety planning and support for an extended period of time. The program aims to ensure veterans are not only receiving information on available services but, are also enrolled, accepted, and attending VA-funded and other community based services.

III. Effect of Proposed Changes:

Section 1 of the bill creates s. 394.9087, F.S. This new section within the chapter on community based substance abuse and mental health services creates the Florida Veterans' Care Coordination Program. The program is created within the DCF. The program must meet the requirements of Florida's 211 Network as specified in s. 408.913, F.S. The purpose of the program is to provide veterans and their families with behavioral health information and referral services. Behavioral health includes both mental health and substance abuse services. The department is directed to model the new Veterans' Care Coordination Program after a pilot program in central Florida conducted by the Crisis Center of Tampa Bay and the Department of Veterans' Affairs.

The bill sets out goals for the program to include:

- Prevent suicides among veterans;
- Increase the use of services; and
- Increase the level of federal Veterans Administration funding.

The bill requires the DCF to establish care coordination teams to implement the program statewide. The program is to provide information and referral services by expanding the services provided by the Florida 211 Network. The services must include:

- Peer support, crisis intervention and information and referral;
- Treatment coordination, including follow up care;
- Suicide assessment;
- Promotion of safety and wellness;
- Coordination of resources available to veterans; and
- Needs assessments, including safety planning.

The program must maintain records on the number of requests for services. The bill requires the program to follow up with veterans to see if they have acted on referrals for service and if they have received assistance. The program is required to develop communication strategies to inform veterans and their families of available services.

Section 2 of the bill appropriates \$2 million in recurring general revenue funds to the DCF to implement the Veterans' Care Coordination Program.

Section 3 provides an effective date of July 1, 2015.

⁶ Specific appropriation 595 of HB 5001, 2014-2015 General Appropriations Act

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:

None.

C. Government Sector Impact:

The bill appropriates \$2 million in recurring general revenue funds to the Department of Children and Families.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 394.9087 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.

By Senator Simpson

18-01074-15

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A bill to be entitled

An act relating to services for veterans and their families; creating s. 394.9087, F.S.; requiring the Department of Children and Families to establish the Florida Veterans' Care Coordination Program; providing goals of the program; requiring the designation of implementation teams; providing a list of required services; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 394.9087, Florida Statutes is created to read:

394.9087 Florida Veterans' Care Coordination Program.—

(1) The Department of Children and Families, in cooperation with the Agency for Health Care Administration and pursuant to the requirements of s. 408.913, shall establish the Florida Veterans' Care Coordination Program in all department service districts to provide veterans and their families in this state with dedicated behavioral healthcare referral services, especially mental health and substance abuse services. The department shall model the program after the proof-of-concept pilot program conducted in 2014 by the Crisis Center of Tampa Bay and the Department of Veterans' Affairs in Hillsborough, Pasco, Pinellas, Polk, and Manatee Counties.

(2) The goals of the program are to:

(a) Prevent suicides by veterans in this state.

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(b) Increase the number of veterans who make use of agency services.

(c) Increase the level of Veterans Administration funding for needed services to veterans in this state, thereby saving money for the state.

(3) The department shall designate care coordination teams to implement the program statewide. The teams shall provide referral services to veterans and their families and expand the existing Florida 211 Network, authorized by s. 408.918, to include the optimal range of veterans' service organizations and programs.

(4) Services provided by the program must include:

(a) Telephonic peer support, crisis intervention, and the communication of information and referral resources.

(b) Treatment coordination, including followup care.

(c) Suicide assessment.

(d) Promotion of the safety and wellness of veterans and their families, including continuous safety planning and support.

(e) Resource coordination, including data analysis, to ensure acceptance, enrollment, and attendance by veterans and their families in Veterans Administration programs and services and community-based programs and services.

(f) Immediate needs assessments, including safety planning.

(5) To enhance program services, program teams shall:

(a) Track the number of requests from callers who are veterans or their family members.

(b) Follow up with callers to determine whether they have acted on the referrals or received the assistance needed, or if

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59 additional referrals or advocacies are needed.

60 (c) Develop communication strategies, such as media
61 promotions, public service announcements, print and Internet
62 stories, or community presentations, to inform veterans and
63 their families about available services.

64 (d) Document all calls and capture all data to improve
65 outreach to veterans and their families.

66 Section 2. For the 2015-2016 fiscal year, the sum of \$2
67 million in recurring funds is appropriated from the General
68 Revenue Fund to the Department of Children and Families for the
69 purpose of implementing this act.

70 Section 3. This act shall take effect July 1, 2015.

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 1340

INTRODUCER: Senator Latvala

SUBJECT: Mental Health and Substance Abuse

DATE: March 5, 2015

REVISED: _____

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

I. Summary:

SB 1340 creates the Substance Abuse Assistance Pilot Program within the Department of Children and Families (DCF or department). The department will determine the number of participants subject to available funding, be required to develop safe and cost efficient treatment alternatives, contract with specified entities to serve as program managers in the selected regions and provide an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives by October 1, of each year.

The legislation also creates a process for an adult with capacity to execute a mental health or substance abuse treatment advance directive to guide their treatment should they become incapacitated. The bill provides for the revocation or expiration of the advance directive and the terms for revoking the advance directive. Specifically, for participants in the pilot program, the bill allows an individual to create a self-binding arrangement which specifies the conditions the individual may be admitted for inpatient mental health or substance abuse treatment for up to 14 days. Additionally, the bill prohibits the criminal prosecution of a health care facility, provider or surrogate who acts in accordance with a mental health or substance abuse treatment advance directive.

The bill provides an effective date of July 1, 2015. The fiscal impact of the bill on DCF is indeterminate.

II. Present Situation:

Mental Health, Homelessness and Substance Abuse

According to the Substance Abuse and Mental Health Administration, 20 to 25 percent of the homeless population in the United States suffers from some form of severe mental illness.¹ Poor mental health may also affect physical health.² In addition, half of the mentally ill homeless

¹ National Coalition for the Homeless, *Mental Illness and Homelessness*, (July 2009).

² *Id.*

population in the United States also suffers from substance abuse and dependence.³ Some mentally ill people self-medicate using street drugs, which not only can lead to addictions but to disease transmission.⁴ This combination of mental illness, substance abuse and poor physical health makes it very difficult for people to obtain employment and residential stability.⁵ Better mental health services would combat not only mental illness, but homelessness as well.⁶ However, even if homeless individuals with mental illness are provided with housing, they are unlikely to achieve residential stability and remain off the streets unless they have access to continued treatment and services.⁷ Research has shown that supported housing is effective for people with mental illnesses and supported housing programs offer services such as mental health treatment, physical health care, education and employment opportunities, peer support, and daily living and money management skills training.⁸

Mental illness creates enormous social and economic costs.⁹ Unemployment rates for people with all mental disorders are high.¹⁰ People with severe mental illness have exceptionally high rates of unemployment between 60 to 100 percent.¹¹ While mental illness increases a person's risk of homelessness in America threefold, there is now a new victim – children and young adults of parents who are having difficulty making ends meet.¹² Studies show that approximately 33 percent of our nation's homelessness live with a serious mental disorder such as schizophrenia for which they are not receiving treatment.¹³ Often the combination of homelessness and mental illness creates the perfect storm for incarceration which further decreases a person's chance of receiving proper treatment and lead to future re-offenses.¹⁴

According to the National Alliance on Mental Illness (NAMI), approximately 50 percent of individuals with severe mental health disorders are affected by substance abuse.¹⁵ NAMI also estimates that 29 percent of all people diagnosed as mentally ill abuse alcohol or other drugs.¹⁶ When mental health disorders are left untreated, substance abuse is likely to increase. One may try to self-medicate with substances to reduce mental health symptoms. One may also increase substance use as a result of stress and inability to cope with issues or situations.¹⁷ When substance abuse increases, mental health symptoms often increase as well or new symptoms may be triggered. This could also be due to discontinuation of taking prescribed medications or the

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Mental Illness: The Invisible Menace; Economic Impact*, available at <http://www.mentalmenace.com/economicimpact.php>

¹⁰ *Mental Illness: The Invisible Menace: More impacts and facts*, available at <http://www.mentalmenace.com/impactsfacts.php>

¹¹ *Id.*

¹² *How does Mental Illness Impact Rates of Homelessness?* Available at <http://www.familyguidance.org/how-does-mental-illness-impact-rates-of-homelessness/>

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Donna M. White, OPCI, CACP, *Living with Co-Occurring Mental & Substance Abuse Disorders*, available at <http://psychcentral.com/blog/archives/2013/10/02/living-with-co-occurring-mental-substance>

¹⁶ *Id.*

¹⁷ *Id.*

contraindications for substance abuse and mental health medications. When taken with other medications, mental health medications can become less effective.¹⁸

The best treatment for co-occurring disorders is commonly referred to as an integrated approach. This method of treatment simultaneously combines the treatment of both mental health and substance abuse disorders.¹⁹ Treatment often includes education regarding both substance abuse and mental health diagnoses; however, these individual may require longer treatment than those with a single disorder.²⁰

Advance Directive for Mental Health or Substance Abuse Treatment

Florida law currently allows an individual to create an advance directive which designates a surrogate to make health care decisions and provides a process for the execution of the directive.²¹ Currently law also allows an individual to designate a separate surrogate to consent to mental health treatment if the individual is determined by a court to be incompetent to consent to mental health treatment²² A mental health or substance abuse treatment advance directive is much like a living will for health care.²³ Acute episodes of mental illness temporarily destroy the capacity required to give informed consent and often prevent people from realizing they are sick, causing them to refuse intervention.²⁴ Even in the midst of acute episodes, many people do not meet commitment criteria because they are not likely to injure themselves or others and are still able to care for their basic needs.²⁵ Left untreated, the episode will likely spiral out of control and by the time the person meets the commitment criteria, devastation has already occurred.²⁶

The Uniform Law Commissioners enacted the Uniform Health-Care Decisions Act as a model statute to address all types of advance health care planning, including planning for mental illness; however, the Act focuses on end-of-life care and fails to address many issues faced by people with mental illness.²⁷ A key failure of the Uniform Act is that it does not empower patients to form self-binding arrangements for care.²⁸ These self-binding arrangements are known as Ulysses arrangement. A Ulysses arrangement is a type of mental health advance directive that serves as a preventative measure for a patient to obtain treatment during an episode because the patient has learned that episodes cause him or her to refuse needed intervention.²⁹ The arrangement is entered into when the individual has capacity. A Ulysses arrangement authorizes doctors to treat the patient during a future episode when the he or she lacks capacity even if the episode causes the individual to refuse treatment at that time. Without a Ulysses arrangement, an

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Section 765.202, F.S.

²² Section 765.202(5), F.S.

²³ Washington State Hospital Association, *Mental Health Advance Directives*, copy on file with the Senate Committee on Children, Families and Elder Affairs.

²⁴ Judy A. Clausen, *Making the Case for a Model Mental Health Advance Directive Statute*, 14 *Yale Journal of Health Policy, Law & Ethics* (Winter 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 2.

individual whose illness causes him to revoke his mental health advance directive and refuse treatment has no mechanism to secure intervention unless he meets involuntary commitment criteria.³⁰ Ulysses arrangements are superior to involuntary commitment because involuntary commitment comes too late and is often traumatic; the proceedings can be dehumanizing; and police intervention and apprehension can be dangerous.³¹ Additionally, the Ulysses arrangement allows the individual to secure treatment from the individual's regular mental health treatment provider who understands the patient's illness and history, in a facility the individual chooses.³²

III. Effect of Proposed Changes:

Section 1 amends s. 394.4598, F.S., to allow a family member of the patient, or interested party, in addition to the administrator of a receiving or treatment facility, to petition the court for the appointment of a guardian advocate for a patient incompetent to consent to treatment but not adjudicated incapacitated. The bill adds mental health care or substance abuse treatment surrogates to the list of people the court should give preference to when selecting a guardian advocate.

Section 2 creates s. 397.803, F.S., to create the Substance Abuse Assistance Pilot Program within the Department of Children and Families. The pilot program is created to determine whether the provision of comprehensive services through a coordinated system of case management offering a range of recovery support services leads to increased employment, stability in housing, and decreased involvement in the criminal justice system for substance abuse impaired adults. The pilot program in selected regions is to develop safe and cost efficient treatment alternatives and provide comprehensive case management and continuum of care services to participants. Participation in the pilot program may be designated as an alternative to criminal imprisonment for participants.

To be eligible to participate in the pilot program a person must:

- Be 18 years of age or older with a history of chronic substance abuse or addiction.
- Execute a mental health advance directive which must include a self-binding arrangement as defined in s. 765.403, F.S. If the participant does not have a family member or other adult available to serve as a surrogate, the entity under contract with the Statewide Public Guardianship Office shall be appointed to serve as the surrogate.
- Share the responsibility for the costs of the pilot program according to their ability to pay, based on a sliding scale.

The bill directs DCF to contract with the Medicaid managed care organization or behavioral health managing entity in the selected region to serve as program manager and it shall be responsible for the following functions:

- Recruitment, retention and management of a network of qualified service providers to ensure accessibility and quality of care.

³⁰ *Id* at 6.

³¹ *Id*.

³² Judy Ann Clausen, *Bring Ulysses to Florida: Proposed Legislative Relief for Mental Health Patients*, article to be published in Marquette University's Elder's Advisor Law Review. Copy on file with the Senate Committee on Children, Families, and Elder Affairs.

- Development and implementation of an organizational structure and operational policies to ensure the provision of coordination of care, continuity of care and the avoidance of duplication of services.
- Comprehensive case management including direct interaction with participants and other activities to assess, plan, implement, and monitor the needed services.
- Administrative functions for the network, including, but not limited to, data management, financial management and contract compliance.

The department is responsible for establishing criteria to ensure an adequate number of qualified providers are included in the network. For the duration of the pilot program, each selected region is limited to one network. The provider network shall:

- Offer a comprehensive range of services for substance abuse impaired or drug addicted adults.
- Divert nonviolent offenders with histories of serious substance abuse or chronic addiction into intensive treatment, comprehensive case management and rehabilitation services through agreements with law enforcement agencies and the criminal justice system.
- Enter into an agreement with the appropriate neighborhood housing services program to provide housing assistance to eligible participants.
- Provide guardians to act as surrogates for eligible participants who do not have family or other adults to perform such duties through an agreement with the public guardianship entity under contract with the Statewide Public Guardianship Office in each selected region.
- In each selected region, enter into an agreement with the local legal services organization to provide legal assistance to participants in the pilot program.

The selected network in each region must be capable of providing, at a minimum, the following services to substance abuse impaired or drug addicted adults:

- Comprehensive case management and continuum of care coordination.
- Outpatient treatment services.
- Crisis care, including mobile response, and detoxification in short-term residential facilities.
- Step-down residential treatment services.
- Housing needs assessment and assistance.
- Employment assistance programs.
- Transportation needs assessment and assistance; and
- Legal services.

The bill provides that general revenue funds appropriated for the pilot program services only pay after an eligible participant's private pay or Medicaid insurance coverage has been exhausted. Eligible participants may share in the cost of provided services based on his or her ability to pay.

The bill directs the department to provide a written report by October 1 of each year to the Governor, the President of the Senate and the Speaker of the House of Representatives which describes the operation and effectiveness of the pilot program. The report must include a recommendation regarding the continuation, expansion, or termination of the pilot program.

Section 3 transfers and renumbers s. 765.401, F.S. as s. 765.311, F.S.

Section 4 transfers and renumbers s. 765.404, F.S. as s. 765.312, F.S.

Section 5 directs the Division of Law Revision and Information to rename part IV of ch. 765, F.S., from “Absence of Advance Directive” to “Mental Health and Substance Abuse Advance Directives.”

Section 6 creates s. 765.4015, F.S., to be cited as the “Jennifer Act.”

Section 7 creates s. 765.402, F.S., to provide legislative findings that individuals with capacity have the ability to control decisions relating to his or her own mental health or substance abuse treatment. The Legislature further finds that substance abuse and mental illness cause individuals to fluctuate between capacity and incapacity; the individual may be unable to provide informed consent necessary to access needed treatment during a time when the individual’s capacity is unclear; early treatment may prevent the individual from becoming so ill that involuntary treatment is necessary; and individuals with mental illness and substance abuse impairment need an established procedure to express their instructions and preferences for treatment and to provide advance consent to or refusal of treatment. This procedure should be less restrictive and less expensive than guardianship.

Mental health or substance abuse treatment advance directives must provide the individual with a full range of choices, including the right of revocation during period of incapacity, and allow the individual to choose how to apply their directives. Treatment providers must abide by the individual’s treatment choices.

Section 8 creates s. 765.403, F.S., to provide definitions for terms used in this section.

Section 9 creates s. 765.405, F.S., to provide for the creation, execution and allowable provision of mental health or substance abuse treatment advance directives. An adult with capacity may execute a mental health or substance abuse impairment advance directive. A directive executed in accordance with this part is presumed valid, however, the inability to honor one or more of the provisions of the advance directive does not invalidate the remaining provisions. The directive may include any provision related to mental health or substance abuse treatment or the care of the principal or the principal’s personal affairs. Without limitation, the directive may include:

- The individual’s preferences and instructions for mental health or substance abuse treatment.
- Refusal to consent to specific types of mental health or substance abuse treatment.
- Consent to admission to and retention in a facility for mental health or substance abuse treatment for up to 14 days; however, such consent must be an affirmative statement contained in the directive and must clearly state whether the consent is revocable by the individual during a mental health or substance abuse crisis.
- Descriptions of situations that may cause the individual to experience a mental health or substance abuse crisis.
- Suggested alternative responses that may supplement or be in lieu of direct mental health or substance abuse treatment, such as treatment approaches from other providers.
- Appointment of a surrogate to make mental health or substance abuse treatment decisions on the individual’s behalf. If the directive includes a self-binding arrangement that allows the surrogate to consent to the individual’s voluntary admission to inpatient mental health or substance abuse treatment, such authority must be clearly stated.

- The nomination of a guardian, limited guardian, or guardian advocate, by the individual.
- The directive may be independent of or combined with a nomination of a guardian or other durable power of attorney.

Section 10 creates s. 765.406, F.S., to provide for the execution, effective date and expiration of a mental health or substance abuse advance directive. The bill provides that the advance directive must be in writing, clearly indicate that the individual intends to create a directive, clearly indicate whether the individual intends for the surrogate to have the authority to consent to the individual's voluntary admission to inpatient mental health or substance abuse treatment and if such consent is revocable, be dated and signed by the individual or at his or her direction if unable to sign. The directive must be witnessed by two adults, who must declare they were present when the individual dated and signed the directive, and that the individual did not appear to be incapacitated, acting under fraud, undue influence or duress. The surrogate named in the directive cannot act as a witness to the execution of the directive and at least one witness must not be the spouse or blood relative of the individual executing the directive.

The bill provides that the directive is valid upon execution but all or part may take effect at a later date as designated in the directive. It also provides that a directive may be revoked in whole or in part or expire under its own terms. A directive may not create an entitlement to mental health, substance abuse, or medical treatment or supersede a determination of medical necessity. The directive does not obligate any health care provider, professional person, or health care facility to pay the costs associated with requested treatment or to be responsible for the nontreatment or personal care of the individual or his or her affairs outside the facilities' scope of services. Additionally, the directive does not replace or supersede any will, testamentary document or the provision of intestate succession. The directive may not be revoked by the incapacitated individual unless he or she selected the option to permit revocation during incapacitation at execution of the directive or be used to authorize inpatient admission for more than 14 days.

Section 11 creates s. 765.407, F.S., to provide for the revocation or waiver of an advance directive. The bill provides that an individual may revoke his or her advance directive only if, at the time of execution, he or she elected to be able to revoke when incapacitated. A copy of the revocation of the advance directive must be provided by the individual, and is effective upon receipt by, his or her agent, each health care provider, professional person or health care facility that received a copy of the individual's advance directive. The directive may be revoked in whole or in part, expressly or to the extent on any inconsistency by a subsequent directive or be superseded by a court order, including an order entered in a criminal matter. The directive may not be interpreted to interfere with incarceration or detention by the Department of Corrections or a municipal or county jail or the treatment of an individual subject to involuntary treatment pursuant to ch. 394, F.S.

The bill provides that a directive that would have otherwise expired but is effective because the individual is incapacitated remains effective until the individual is no longer incapacitated unless the individual elected to be able to revoke the directive while incapacitated and has revoked the directive.

Section 12 creates s. 765.408, F.S., to provide for the creation of self-binding arrangements to allow competent adults the right of self-determination regarding decisions pertaining to his or her mental health care or substance abuse treatment decisions. The bill provides the legislative intent to ensure such right and establish a procedure to allow individuals to plan for episodes that compromise the ability to recognize need for treatment before meeting the criteria for involuntary commitment. The advance directive must contain a specific provision authorizing the surrogate to direct the course of the individual's mental health or substance abuse treatment. The bill allows the individual to create a self-binding arrangement for care in the event an acute episode renders the individual unable to provide consent or induces him or her to refuse treatment. This arrangement must be affirmatively stated in the directive and include whether the individual has the right to revocation during acute episodes.

The bill provides that in order to create a self-binding arrangement, an individual must obtain a signed, written attestation of capacity from a health care professional, mental health care provider or health care facility. The arrangement must be in writing, dated and signed by the individual or representative if he or she is unable to sign, state whether the individual can revoke the directive at any time or if it remains irrevocable when the individual is unable to consent to treatment or is incapacitated. Failure to state whether the directive is irrevocable means the individual may revoke it at any time. The self-binding arrangement must contain a clear affirmation that the individual is aware of the nature of the document and it was signed freely and voluntarily and be witnessed by at least two adults. Witnesses may not be a member of the individual's treatment team; be related to the individual by blood, adoption or marriage; be in a romantic or dating relationship with the individual; be the surrogate named in the directive; be the owner, operator, or employee of, or a relative of the owner or operator of a treatment facility in which the individual is a patient. The witnesses must attest to their presence when the directive was signed by the individual, that the individual did not appear to be incapacitated or under undue influence or duress and either knows the individual or received identification from the individual. In the event the directive contains a provision that the directive is irrevocable, it must contain a written, signed attestation from a mental health professional that the individual had capacity when the directive was executed. Such attestation is not required if the principal is free to revoke the directive at any time. The directive must appoint a surrogate to make all health care and substance abuse treatment decisions for the individual, including decisions to consent on his or her behalf to inpatient mental health or substance abuse treatment. And that such decisions are effective without judicial approval.

Section 13 creates s. 765.409, F.S., to provide for the admission of an individual to inpatient mental health or substance abuse treatment only if he or she chose not to revoke his or her directive during any period of inability to provide consent or incapacity. The individual may consent to voluntary admission to inpatient mental health or substance abuse treatment or authorize a surrogate to consent on the individual's behalf. The legislation allows the individual to be admitted to or remain in inpatient treatment for up to 14 days. The directive must contain express consent to the use of psychotropic medication to be administered by licensed psychiatrists and only if two psychiatrists recommend, in writing the specific medication. The directive cannot authorize psychosurgery or electroconvulsive therapy.

Section 14 creates s. 765.410, F.S., to provide that a surrogate, health care facility, provider or other person who acts under the direction of a health care facility or provider is not subject to

criminal prosecution or civil liability or to have engaged in unprofessional conduct as a result of carrying out a mental health or substance abuse treatment decision contained in a directive.

Section 15 creates s. 765.411, F.S., to provide for the recognition of a mental health advance directive executed in compliance with the law of another state is valid.

Section 16 amends s. 395.0197, F.S., to correct cross-references.

Section 17 amends s. 395.1051, F.S., to correct cross-references.

Section 18 amends s. 456.0575, F.S., to correct cross-references.

Section 19 amends s. 765.101, F.S. to correct cross-references.

Section 20 amends s. 765.104, F.S., to correct cross-references.

Section 21 reenacts ss. 394.459(3)(b), 394.4598(6) and (7), 394.4655(6)(d) and (7)(f), 394.467(6)(d), 394.46715, and 765.202(5), for the purpose of incorporating the amendments made to s. 394.4598, F.S.

Section 22 creates an effective date of July 1, 2015.

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:

None.

C. Government Sector Impact:

The pilot program created in the bill would create a fiscal impact on DCF.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.4598, 395.0197, 395.1051, 456.0575, 765.101, and 765.104.

This bill creates the following sections of the Florida Statutes: 397.803, 765.4015, 765.402, 765.403, 765.405, 765.406, 765.407, 765.408, 765.409, 765.410, and 765.411.

The bill transfers and renumbers the following sections of the Florida Statutes: 765.401, 765.404,

The bill reenacts the following sections of the Florida Statutes: 394.459(3)(b), 394.4598(6),(7), 394.4655(6)(d), 394.4655(7)(f), 394.467(6)(d), 394.46715 and 765.202(5).

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.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (16) through (32) and (34) through (38) of section 394.455, Florida Statutes, are redesignated as subsections (17) through (33) and (35) through (39), respectively, a new subsection (16) is added to that section, and present subsection (33) of that section is amended, to read:



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11 394.455 Definitions.—As used in this part, unless the
12 context clearly requires otherwise, the term:

13 (16) "Interested person" means, for the purposes of this
14 chapter, any person who may reasonably be expected to be
15 affected by the outcome of the particular proceeding involved,
16 including anyone interested in the welfare of an incapacitated
17 person.

18 ~~(34)~~~~(33)~~ "Service provider" means any public or private
19 receiving facility, an entity under contract with the Department
20 of Children and Families to provide mental health services, a
21 clinical psychologist, a clinical social worker, a marriage and
22 family therapist, a mental health counselor, a physician, a
23 psychiatric nurse as defined in subsection ~~(24)~~ ~~(23)~~, or a
24 community mental health center or clinic as defined in this
25 part.

26 Section 2. Subsections (1) and (5) of section 394.4598,
27 Florida Statutes, are amended to read:

28 394.4598 Guardian advocate.—

29 (1) The administrator, a family member of the patient, or
30 an interested party, may petition the court for the appointment
31 of a guardian advocate based upon the opinion of a psychiatrist
32 that the patient is incompetent to consent to treatment. If the
33 court finds that a patient is incompetent to consent to
34 treatment and has not been adjudicated incapacitated and a
35 guardian with the authority to consent to mental health
36 treatment appointed, it shall appoint a guardian advocate. The
37 patient has the right to have an attorney represent him or her
38 at the hearing. If the person is indigent, the court shall
39 appoint the office of the public defender to represent him or



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40 her at the hearing. The patient has the right to testify, cross-
41 examine witnesses, and present witnesses. The proceeding shall
42 be recorded either electronically or stenographically, and
43 testimony shall be provided under oath. One of the professionals
44 authorized to give an opinion in support of a petition for
45 involuntary placement, as described in s. 394.4655 or s.
46 394.467, must testify. A guardian advocate must meet the
47 qualifications of a guardian contained in part IV of chapter
48 744, except that a professional referred to in this part, an
49 employee of the facility providing direct services to the
50 patient under this part, a departmental employee, a facility
51 administrator, or member of the Florida local advocacy council
52 shall not be appointed. A person who is appointed as a guardian
53 advocate must agree to the appointment.

54 (5) In selecting a guardian advocate, the court shall give
55 preference to a health care, mental health care, or substance
56 abuse treatment surrogate, if one has already been designated by
57 the patient. If the patient has not previously selected a health
58 care, mental health care, or substance abuse treatment
59 surrogate, except for good cause documented in the court record,
60 the selection shall be made from the following list in the order
61 of listing:

- 62 (a) The patient's spouse.
- 63 (b) An adult child of the patient.
- 64 (c) A parent of the patient.
- 65 (d) The adult next of kin of the patient.
- 66 (e) An adult friend of the patient.
- 67 (f) An adult trained and willing to serve as guardian
68 advocate for the patient.



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69 Section 3. Section 397.803, Florida Statutes, is created to
70 read:

71 397.803 Substance Abuse Assistance Pilot Program.—

72 (1) PILOT PROGRAM.—

73 (a) There is created within the Department of Children and
74 Families the Substance Abuse Assistance Pilot Program in such
75 regions of the state as may be designated in the general
76 appropriations act.

77 (b) Within available funding, the department shall
78 determine a target number of participants in each pilot program
79 region.

80 (c) The pilot program is created to determine whether the
81 provision of comprehensive care through a coordinated system of
82 case management that offers a range of recovery support services
83 during and after treatment for acute episodes leads to increased
84 employment, stability in housing, and decreased involvement in
85 the criminal justice system on the part of participants.

86 (d) The pilot program shall provide a comprehensive
87 continuum of high-quality and accessible substance abuse
88 intervention, residential and outpatient treatment,
89 comprehensive case management, and recovery support services for
90 substance abuse impaired adults.

91 (e) The pilot program in each selected region shall develop
92 safe and cost efficient treatment alternatives and provide
93 comprehensive case management and continuum of care services for
94 eligible substance abuse impaired adults.

95 (f) Participation in the pilot program may be designated as
96 an alternative to criminal imprisonment for substance abuse
97 impaired adults, as appropriate.



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98 (g) Each pilot program region shall submit data to the
99 department on a monthly basis that, at a minimum, reports
100 characteristics of the participants, use of services, and such
101 data as necessary to measure changes in participants' status
102 with regard to housing, employment, and criminal activity.

103 (2) ELIGIBILITY AND ENROLLMENT.—Maximum enrollment shall be
104 determined by the department, based on funding. To be eligible
105 for participation in the pilot program a person must:

106 (a) Be 18 years of age or older with a history of chronic
107 substance abuse or addiction.

108 (b) Execute a mental health or substance abuse treatment
109 directive as defined in s. 765.403.

110 (c) Include in the mental health or substance abuse
111 treatment directive a self-binding arrangement provision that
112 must:

113 1. Be in writing.

114 2. Be dated and signed by the principal or the principal's
115 designated representative if the principal is unable to sign.

116 3. State whether the principal wishes to be able to revoke
117 the directive at any time or whether the directive remains
118 irrevocable when the principal is unable to consent to treatment
119 or is incapacitated. Failure to clarify whether the directive is
120 revocable does not render it unenforceable. If the directive
121 fails to state whether it is revocable, the principal may revoke
122 it at any time.

123 4. Contain a clear affirmation that the principal is aware
124 of the nature of the document signed and that the directive was
125 signed freely and voluntarily.

126 5. Be witnessed by at least two adults who, for the



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127 purposes of this section, may not be:
128 a. A member of the principal's treatment team;
129 b. Related to the principal by blood, adoption, or
130 marriage;
131 c. Be in a romantic or dating relationship with the
132 principal;
133 d. The surrogate named by the principal in the signed
134 directive; or
135 e. The owner, operator, or employee of, or a relative of
136 the owner, operator, or an employee of, a treatment facility in
137 which the principal is a patient.
138 6. Be witnessed by persons who attest that:
139 a. They were present when the principal signed the
140 directive;
141 b. The principal appeared to have capacity and not be under
142 undue influence or duress when he or she signed the directive;
143 and
144 c. The principal presented identification or the witness
145 personally knows the principal.
146 7. If the directive includes a provision that it is
147 irrevocable, it must contain a written, signed attestation from
148 a mental health professional that the principal had capacity at
149 the time the directive was executed. If the principal is free to
150 revoke the directive at any time, such attestation is not
151 required.
152 8. Be valid upon execution.
153 9. Contain a designated activation standard other than the
154 principal's inability to provide consent to treatment or
155 incapacity by describing circumstances or events under which the



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156 directive becomes active.

157 10. Affirmatively state that despite activation, a
158 directive does not prevail over contemporaneous preferences
159 expressed by a principal who has capacity or the ability to
160 consent to treatment and has not included a self-binding
161 arrangement provision in the directive.

162 11. Appoint a surrogate to make all health care and
163 substance abuse treatment decisions for the principal, including
164 decisions to consent on behalf of the principal to inpatient
165 mental health or substance abuse treatment.

166 12. Contain a provision that decisions made by a surrogate
167 for a principal's mental health care or substance abuse
168 treatment are effective without judicial approval.

169 (d) Share responsibility for the costs of pilot program
170 services according to his or her ability to pay, based on a
171 sliding scale.

172 (3) SYSTEM OF CARE; CASE MANAGEMENT; PAYMENT METHOD.-

173 (a) The department shall contract with the Medicaid managed
174 care organization or behavioral health managing entity operating
175 in the applicable geographic region to serve as program manager.

176 (b) The program manager is responsible for the following
177 functions:

178 1. Network management including recruitment and retention
179 of an adequate number of qualified service providers to ensure
180 accessibility and quality of care;

181 2. Coordination of care, including the development and
182 implementation of organizational structures and operational
183 policies necessary to ensure that the network provides
184 continuity of care and avoids unnecessary duplication of



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185 services;

186 3. Comprehensive case management, which may be provided by
187 the program manager or by a contracted service provider,
188 including direct interaction with participants and other
189 activities necessary to assess, plan, implement, and monitor the
190 needed services; and

191 4. Administrative functions for the network including, but
192 not limited to, data management, financial management, and
193 contract compliance.

194 (c) The department shall establish criteria for ensuring
195 that an adequate number of providers are included in the network
196 and for provider qualifications, which shall be specified in the
197 contract with the program manager. The pilot program shall be
198 limited to one network in the region for the duration of the
199 pilot program. The provider network shall:

200 1. Offer a comprehensive range of services for substance
201 abuse impaired or drug addicted adults.

202 2. Enter into agreements with law enforcement agencies and
203 the criminal justice system to divert nonviolent offenders with
204 histories of serious substance abuse or chronic addiction into
205 intensive treatment, comprehensive case management, and
206 rehabilitation services.

207 3. Enter into an agreement with the appropriate
208 neighborhood housing services program to provide housing
209 assistance to eligible participants.

210 4. Enter into an agreement with the entity under contract
211 with the Statewide Public Guardianship Office in the pilot
212 program region to provide guardians to act in the capacity of
213 surrogates for eligible participants who do not have family



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214 members or other adults available to perform such duties.
215 5. Enter into an agreement with the applicable nonprofit
216 local legal services organization serving the pilot program
217 region to provide legal assistance to eligible participants.
218 (4) SERVICES.—The network must be capable of providing, at
219 a minimum, the following services to substance abuse impaired or
220 drug addicted adults:
221 1. Comprehensive case management and continuum of care
222 coordination;
223 2. Outpatient treatment services;
224 3. Crisis care, including mobile response, and
225 detoxification in short-term residential facilities;
226 4. Inpatient treatment services;
227 5. Step-down residential treatment services;
228 6. Housing needs assessment and assistance;
229 7. Employment assistance programs;
230 8. Transportation needs assessment and assistance; and
231 9. Legal services.
232 (5) PAYMENT FOR SERVICES.—
233 (a) The general revenue funds appropriated by the
234 legislature for the purposes of this section shall be applied to
235 payment for services only after an eligible participant's
236 private pay or Medicaid insurance coverage has been exhausted.
237 (b) An eligible participant may share in the cost of
238 provided services based on his or her ability to pay.
239 (6) ACCOUNTABILITY; ANNUAL REPORTS.—
240 (a) By October 1 of each year, the department shall provide
241 a written report to the Governor, the President of the Senate,
242 and the Speaker of the House of Representatives which describes



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243 the operation and effectiveness of the pilot program. The report
244 must include, but is not limited to, an evaluation of the impact
245 of the following components of the program:

- 246 1. Comprehensive case management;
247 2. Care coordination and followup care;
248 3. Housing initiatives; and
249 4. Employment assistance.

250 (b) The report must include a recommendation regarding the
251 continuation, expansion, or termination of the pilot program.

252 Section 4. Section 765.401, Florida Statutes, is
253 transferred and renumbered as section 765.311, Florida Statutes.

254 Section 5. Section 765.404, Florida Statutes, is
255 transferred and renumbered as section 765.312, Florida Statutes.

256 Section 6. The Division of Law Revision and Information is
257 directed to rename part IV of chapter 765, Florida Statutes, as
258 "Mental Health and Substance Abuse Advance Directives."

259 Section 7. Section 765.4015, Florida Statutes, is created
260 to read:

261 765.4015 Short title.—Sections 765.402-765.411 may be cited
262 as the "Jennifer Act."

263 Section 8. Section 765.402, Florida Statutes, is created to
264 read:

265 765.402 Legislative findings.—

266 (1) The Legislature recognizes that an individual with
267 capacity has the ability to control decisions relating to his or
268 her own mental health care or substance abuse treatment. The
269 Legislature finds that:

270 (a) Substance abuse and some mental illnesses cause
271 individuals to fluctuate between capacity and incapacity;



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272 (b) During periods when an individual's capacity is
273 unclear, the individual may be unable to provide informed
274 consent necessary to access needed treatment;

275 (c) Early treatment may prevent an individual from becoming
276 so ill that involuntary treatment is necessary; and

277 (d) Individuals with substance abuse impairment or mental
278 illness need an established procedure to express their
279 instructions and preferences for treatment and provide advance
280 consent to or refusal of treatment. This procedure should be
281 less expensive and less restrictive than guardianship.

282 (2) The Legislature further recognizes that:

283 (a) A mental health or substance abuse treatment advance
284 directive must provide the individual with a full range of
285 choices.

286 (b) For a mental health or substance abuse directive to be
287 an effective tool, individuals must be able to choose how they
288 want their directives to be applied, including the right of
289 revocation, during periods when they are incompetent to consent
290 to treatment.

291 (c) There must be a clear process so that treatment
292 providers can abide by an individual's treatment choices.

293 Section 9. Section 765.403, Florida Statutes, is created to
294 read:

295 765.403 Definitions.—As used in this section, the term:

296 (1) "Adult" means any individual who has attained the age
297 of majority or is an emancipated minor.

298 (2) "Capacity" means that an adult has not been found to be
299 incapacitated pursuant to s. 394.463.

300 (3) "Health care facility" means a hospital, nursing home,



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301 hospice, home health agency, or health maintenance organization
302 licensed in this state, or any facility subject to part I of
303 chapter 394.

304 (4) "Incapacity" or "incompetent" means an adult who is:

305 (a) Unable to understand the nature, character, and
306 anticipated results of proposed treatment or alternatives or the
307 recognized serious possible risks, complications, and
308 anticipated benefits of treatments and alternatives, including
309 nontreatment;

310 (b) Physically or mentally unable to communicate a willful
311 and knowing decision about mental health care or substance abuse
312 treatment;

313 (c) Unable to communicate his or her understanding or
314 treatment decisions; or

315 (d) Determined incompetent pursuant to s. 394.463.

316 (5) "Informed consent" means consent voluntarily given by a
317 person after a sufficient explanation and disclosure of the
318 subject matter involved to enable that person to have a general
319 understanding of the treatment or procedure and the medically
320 acceptable alternatives, including the substantial risks and
321 hazards inherent in the proposed treatment or procedures or
322 nontreatment, and to make knowing mental health care or
323 substance abuse treatment decisions without coercion or undue
324 influence.

325 (6) "Mental health or substance abuse treatment advance
326 directive" means a written document in which the principal makes
327 a declaration of instructions or preferences or appoints a
328 surrogate to make decisions on behalf of the principal regarding
329 the principal's mental health or substance abuse treatment, or



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330 both.

331 (7) "Mental health professional" means a psychiatrist,
332 psychologist, psychiatric nurse, or social worker, and such
333 other mental health professionals licensed pursuant to chapter
334 458, chapter 464, chapter 490, or chapter 491.

335 (8) "Principal" means a competent adult who executes a
336 mental health or substance abuse treatment advance directive and
337 on whose behalf mental health care or substance abuse treatment
338 decisions are to be made.

339 (9) "Surrogate" means any competent adult expressly
340 designated by a principal to make mental health care or
341 substance abuse treatment decisions on behalf of the principal
342 as set forth in the principal's mental health or substance abuse
343 treatment advance directive or self-binding arrangement as those
344 terms are defined in this section.

345 Section 10. Section 765.405, Florida Statutes, is created
346 to read:

347 765.405 Mental health or substance abuse treatment advance
348 directive; execution; allowable provisions.-

349 (1) An adult with capacity may execute a mental health or
350 substance abuse treatment advance directive.

351 (2) A directive executed in accordance with this section is
352 presumed to be valid. The inability to honor one or more
353 provisions of a directive does not affect the validity of the
354 remaining provisions.

355 (3) A directive may include any provision relating to
356 mental health or substance abuse treatment or the care of the
357 principal. Without limitation, a directive may include:

358 (a) The principal's preferences and instructions for mental



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359 health or substance abuse treatment.

360 (b) Consent to specific types of mental health or substance
361 abuse treatment.

362 (c) Refusal to consent to specific types of mental health
363 or substance abuse treatment.

364 (d) Consent to admission to and retention in a facility for
365 mental health or substance abuse treatment for up to 14 days.

366 Such consent must be an affirmative statement contained within
367 the directive and must clearly indicate whether such consent is
368 revocable by the principal during a mental health or substance
369 abuse crisis.

370 (e) Descriptions of situations that may cause the principal
371 to experience a mental health or substance abuse crisis.

372 (f) Suggested alternative responses that may supplement or
373 be in lieu of direct mental health or substance abuse treatment,
374 such as treatment approaches from other providers.

375 (g) The principal's nomination of a guardian, limited
376 guardian, or guardian advocate as provided chapter 744.

377 (4) A directive may be combined with or be independent of a
378 nomination of a guardian, other durable power of attorney, or
379 other advance directive.

380 Section 11. Section 765.406, Florida Statutes, is created
381 to read:

382 765.406 Execution of a mental health or substance abuse
383 advance directive; effective date; expiration.-

384 (1) A directive must:

385 (a) Be in writing.

386 (b) Contain language that clearly indicates that the
387 principal intends to create a directive.



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388 (c) Contain language that clearly indicates whether the
389 principal intends for the surrogate to have the authority to
390 provide consent on the principal's behalf to voluntary admission
391 to inpatient mental health or substance abuse treatment and
392 whether the principal's consent is revocable.

393 (d) Be dated and signed by the principal or, if the
394 principal is unable to sign, at the principal's direction in the
395 principal's presence.

396 (e) Be witnessed by two adults, each of whom must declare
397 that he or she personally knows the principal and was present
398 when the principal dated and signed the directive, and that the
399 principal did not appear to be incapacitated or acting under
400 fraud, undue influence, or duress. The person designated as the
401 surrogate may not act as a witness to the execution of the
402 document designating the mental health or substance abuse care
403 treatment surrogate. At least one person who acts as a witness
404 must be neither the principal's spouse nor his or her blood
405 relative.

406 (2) A directive is valid upon execution, but all or part of
407 the directive may take effect at a later date as designated by
408 the principal in the directive.

409 (3) A directive may:

410 (a) Be revoked, in whole or in part, pursuant to s.
411 765.407; or

412 (b) Expire under its own terms.

413 (4) A directive does not or may not:

414 (a) Create an entitlement to mental health, substance
415 abuse, or medical treatment or supersede a determination of
416 medical necessity.



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417 (b) Obligate any health care provider, professional person,
418 or health care facility to pay the costs associated with the
419 treatment requested.

420 (c) Obligate a health care provider, professional person,
421 or health care facility to be responsible for the nontreatment
422 or personal care of the principal or the principal's personal
423 affairs outside the scope of services the facility normally
424 provides.

425 (d) Replace or supersede any will or testamentary document
426 or supersede the provision of intestate succession.

427 (e) Be revoked by an incapacitated principal unless that
428 principal selected the option to permit revocation while
429 incapacitated at the time his or her directive was executed.

430 (f) Be used as the authority for inpatient admission for
431 more than 14 days.

432 Section 12. Section 765.407, Florida Statutes, is created
433 to read:

434 765.407 Revocation; waiver.—

435 (1) (a) A principal with capacity may, by written statement
436 of the principal or at the principal's direction in the
437 principal's presence, revoke a directive in whole or in part.

438 (b) A person incompetent to consent to treatment may revoke
439 a directive only if he or she elected at the time of executing
440 the directive to be able to revoke when incapacitated.

441 (2) The principal shall provide a copy of his or her
442 written statement of revocation to his or her agent, if any, and
443 to each health care provider, professional person, or health
444 care facility that received a copy of the directive from the
445 principal.



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446 (3) The written statement of revocation is effective as to
447 a health care provider, professional person, or health care
448 facility upon receipt. The professional person, health care
449 provider, or health care facility, or persons acting under their
450 direction, shall make the statement of revocation part of the
451 principal's medical record.

452 (4) A directive also may:

453 (a) Be revoked, in whole or in part, expressly or to the
454 extent of any inconsistency, by a subsequent directive; or

455 (b) Be superseded or revoked by a court order, including
456 any order entered in a criminal matter. The individual's family,
457 the health care facility, the attending physician, or any other
458 interested person who may be directly affected by the
459 surrogate's decision concerning any health care may seek
460 expedited judicial intervention pursuant to rule 5.900 of the
461 Florida Probate Rules, if that person believes:

462 1. The surrogate's decision is not in accord with the
463 individual's known desires;

464 2. The advance directive is ambiguous, or the individual
465 has changed his or her mind after execution of the advance
466 directive;

467 3. The surrogate was improperly designated or appointed, or
468 the designation of the surrogate is no longer effective or has
469 been revoked;

470 4. The surrogate has failed to discharge duties, or
471 incapacity or illness renders the surrogate incapable of
472 discharging duties;

473 5. The surrogate has abused powers; or

474 6. The individual has sufficient capacity to make his or



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475 her own health care decisions.

476 (5) A directive that would have otherwise expired but is
477 effective because the principal is incapacitated remains
478 effective until the principal is no longer incapacitated unless
479 the principal elected to be able to revoke while incapacitated
480 and has revoked the directive.

481 (6) When a principal with capacity consents to treatment
482 that differs from, or refuses treatment consented to in, his or
483 her directive, the consent or refusal constitutes a waiver of a
484 particular provision and does not constitute a revocation of the
485 provision or the directive unless that principal also revokes
486 the provision or directive.

487 Section 13. Section 765.410, Florida Statutes, is created
488 to read:

489 765.410 Immunity from liability; weight of proof;
490 presumption.-

491 (1) A health care facility, provider, or other person who
492 acts under the direction of a health care facility or provider
493 is not subject to criminal prosecution or civil liability, and
494 may not be deemed to have engaged in unprofessional conduct, as
495 a result of carrying out a mental health care or substance abuse
496 treatment decision made in accordance with this section. The
497 surrogate who makes a mental health care or substance abuse
498 treatment decision on a principal's behalf, pursuant to this
499 section, is not subject to criminal prosecution or civil
500 liability for such action.

501 (2) This section applies unless it is shown by a
502 preponderance of the evidence that the person authorizing or
503 effectuating a mental health or substance abuse treatment



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504 decision did not, in good faith, comply with this section.

505 Section 14. Section 765.411, Florida Statutes, is created
506 to read:

507 765.411 Recognition of mental health and substance abuse
508 treatment advance directive executed in another state.—A mental
509 health or substance abuse treatment advance directive executed
510 in another state in compliance with the law of that state is
511 validly executed for the purposes of this chapter.

512 Section 15. Subsection (3) of section 394.495, Florida
513 Statutes, is amended to read:

514 394.495 Child and adolescent mental health system of care;
515 programs and services.—

516 (3) Assessments must be performed by:

517 (a) A professional as defined in s. 394.455(2), (4), (22)
518 ~~(21)~~, (24) ~~(23)~~, or (25) ~~(24)~~;

519 (b) A professional licensed under chapter 491; or

520 (c) A person who is under the direct supervision of a
521 professional as defined in s. 394.455(2), (4), (22) ~~(21)~~, (24)
522 ~~(23)~~, or (25) ~~(24)~~ or a professional licensed under chapter 491.

523

524 The department shall adopt by rule statewide standards for
525 mental health assessments, which must be based on current
526 relevant professional and accreditation standards.

527 Section 16. Subsection (6) of section 394.496, Florida
528 Statutes, is amended to read:

529 394.496 Service planning.—

530 (6) A professional as defined in s. 394.455(2), (4), (22)
531 ~~(21)~~, (24) ~~(23)~~, or (25) ~~(24)~~ or a professional licensed under
532 chapter 491 must be included among those persons developing the



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533 services plan.

534 Section 17. Subsection (6) of section 394.9085, Florida
535 Statutes, is amended to read:

536 394.9085 Behavioral provider liability.—

537 (6) For purposes of this section, the terms “detoxification
538 services,” “addictions receiving facility,” and “receiving
539 facility” have the same meanings as those provided in ss.
540 397.311(18)(a)4., 397.311(18)(a)1., and 394.455 (27) ~~(26)~~,
541 respectively.

542 Section 18. Paragraph (d) of subsection (1) of section
543 395.0197, Florida Statutes, is amended to read:

544 395.0197 Internal risk management program.—

545 (1) Every licensed facility shall, as a part of its
546 administrative functions, establish an internal risk management
547 program that includes all of the following components:

548 (d) A system for informing a patient or an individual
549 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~ that the
550 patient was the subject of an adverse incident, as defined in
551 subsection (5). Such notice shall be given by an appropriately
552 trained person designated by the licensed facility as soon as
553 practicable to allow the patient an opportunity to minimize
554 damage or injury.

555 Section 19. Section 395.1051, Florida Statutes, is amended
556 to read:

557 395.1051 Duty to notify patients.—An appropriately trained
558 person designated by each licensed facility shall inform each
559 patient, or an individual identified pursuant to s. 765.311(1)
560 ~~s. 765.401(1)~~, in person about adverse incidents that result in
561 serious harm to the patient. Notification of outcomes of care



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562 that result in harm to the patient under this section shall not
563 constitute an acknowledgment or admission of liability, nor can
564 it be introduced as evidence.

565 Section 20. Paragraph (b) of subsection (1) of section
566 409.972, Florida Statutes, is amended to read:

567 409.972 Mandatory and voluntary enrollment.—

568 (1) The following Medicaid-eligible persons are exempt from
569 mandatory managed care enrollment required by s. 409.965, and
570 may voluntarily choose to participate in the managed medical
571 assistance program:

572 (b) Medicaid recipients residing in residential commitment
573 facilities operated through the Department of Juvenile Justice
574 or mental health treatment facilities as defined by s.
575 394.455(33) ~~s. 394.455(32)~~.

576 Section 21. Section 456.0575, Florida Statutes, is amended
577 to read:

578 456.0575 Duty to notify patients.—Every licensed health
579 care practitioner shall inform each patient, or an individual
580 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~, in person
581 about adverse incidents that result in serious harm to the
582 patient. Notification of outcomes of care that result in harm to
583 the patient under this section shall not constitute an
584 acknowledgment of admission of liability, nor can such
585 notifications be introduced as evidence.

586 Section 22. Subsection (7) of section 744.704, Florida
587 Statutes, is amended to read:

588 744.704 Powers and duties.—

589 (7) A public guardian shall not commit a ward to a mental
590 health treatment facility, as defined in s. 394.455(33) ~~s.~~



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591 ~~394.455(32)~~, without an involuntary placement proceeding as
592 provided by law.

593 Section 23. Subsection (15) of section 765.101, Florida
594 Statutes, is amended to read:

595 765.101 Definitions.—As used in this chapter:

596 (15) "Proxy" means a competent adult who has not been
597 expressly designated to make health care decisions for a
598 particular incapacitated individual, but who, nevertheless, is
599 authorized pursuant to s. 765.311 ~~s. 765.401~~ to make health care
600 decisions for such individual.

601 Section 24. Subsection (4) of section 765.104, Florida
602 Statutes, is amended to read:

603 765.104 Amendment or revocation.—

604 (4) Any patient for whom a medical proxy has been
605 recognized under s. 765.311 ~~s. 765.401~~ and for whom any previous
606 legal disability that precluded the patient's ability to consent
607 is removed may amend or revoke the recognition of the medical
608 proxy and any uncompleted decision made by that proxy. The
609 amendment or revocation takes effect when it is communicated to
610 the proxy, the health care provider, or the health care facility
611 in writing or, if communicated orally, in the presence of a
612 third person.

613 Section 25. Paragraph (b) of subsection (3) of s. 394.459,
614 subsections (6) and (7) of s. 394.4598, paragraph (d) of
615 subsection (6) and paragraph (f) of subsection (7) of s.
616 394.4655, paragraph (d) of subsection (6) of s. 394.467, s.
617 394.46715, and subsection (5) of s. 765.202, Florida Statutes,
618 are reenacted for the purpose of incorporating the amendments
619 made to s. 394.4598, Florida Statutes.



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620 Section 26. This act shall take effect July 1, 2015.

621

622 ===== T I T L E A M E N D M E N T =====

623 And the title is amended as follows:

624 Delete everything before the enacting clause
625 and insert:

626 A bill to be entitled
627 An act relating to mental health and substance abuse;
628 amending s. 394.455, F.S.; defining the term
629 "interested person"; amending s. 394.4598, F.S.;
630 authorizing a family member of a patient or an
631 interested party to petition a court for the
632 appointment of a guardian advocate; requiring a court
633 to give preference to certain specified surrogates if
634 such surrogate has already been designated by the
635 patient; creating s. 397.803, F.S.; establishing the
636 Substance Abuse Assistance Pilot Program within the
637 Department of Children and Families; requiring the
638 department to determine a target number of
639 participants within available funds; providing the
640 purpose of the pilot program; requiring the program to
641 develop safe and cost efficient treatment alternatives
642 and provide comprehensive case management services for
643 eligible substance abuse impaired adults; authorizing
644 participation in the program as an alternative to
645 criminal imprisonment; requiring that each pilot
646 program submit specified data to the department on a
647 monthly basis; providing eligibility criteria;
648 requiring that maximum enrollment be determined by the



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649 department based on available funding; requiring the
650 department to contract with specified entities to
651 serve as program managers; specifying the functions of
652 the program manager; requiring the department to
653 establish certain criteria and qualifications for the
654 project manager; requiring that a pilot program site
655 have only one network in a given region; providing
656 requirements for provider networks; specifying
657 services that must be provided by a provider network;
658 specifying that the primary payor for services
659 provided through the program is the participant's
660 private pay or Medicaid insurance coverage; allowing
661 eligible participants to share in the cost of provided
662 services based on ability to pay; requiring the
663 department to provide an annual report to the Governor
664 and Legislature evaluating the impact of the program;
665 requiring such report to include specified
666 information; transferring and renumbering s. 765.401,
667 F.S.; transferring and renumbering s. 765.404, F.S.;
668 providing a directive to the Division of Law Revision
669 and Information; creating s. 765.4015, F.S.; providing
670 a short title; creating s. 765.402, F.S.; providing
671 legislative findings; creating s. 765.403, F.S.;
672 defining terms; creating s. 765.405, F.S.; authorizing
673 an adult with capacity to execute a mental health or
674 substance abuse treatment advance directive; providing
675 a presumption of validity if certain requirements are
676 met; providing for execution of the mental health or
677 substance abuse treatment advance directive; creating



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678 s. 765.406, F.S.; establishing requirements for a
679 valid mental health or substance abuse treatment
680 advance directive; providing that a mental health or
681 substance abuse treatment directive is valid upon
682 execution even if a part of the mental health or
683 substance abuse treatment directive takes effect at a
684 later date; allowing a mental health or substance
685 abuse treatment advance directive to be revoked, in
686 whole or in part, or to expire under its own terms;
687 specifying that a mental health or substance abuse
688 treatment advance directive does not or may not serve
689 specified purposes; creating s. 765.407, F.S.;

690 providing circumstances under which a mental health or
691 substance abuse treatment advance directive may be
692 revoked; providing circumstances under which a
693 principal may waive specific directive provisions
694 without revoking the directive; creating s. 765.410,
695 F.S.; prohibiting criminal prosecution of a health
696 care facility, provider, or surrogate who acts
697 pursuant to a mental health or substance abuse
698 treatment decision; creating s. 765.411, F.S.;

699 providing for recognition of a mental health and
700 substance abuse treatment advance directive executed
701 in another state if it complies with the laws of this
702 state; amending ss. 394.495, 394.496, 394.9085
703 395.0197, 395.1051, 409.972, 456.0575, 744.704,
704 765.101, and 765.104, F.S.; conforming cross-
705 references; reenacting ss. 394.459(3)(b), 394.4598(6)
706 and (7), 394.4655(6)(d) and (7)(f), 394.467(6)(d),



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707 394.46715, and 765.202(5), F.S., to incorporate the
708 amendment made to s. 394.4598, F.S., in references
709 thereto; providing an effective date.

By Senator Latvala

20-00160-15

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1 A bill to be entitled
 2 An act relating to mental health and substance abuse;
 3 amending s. 394.4598, F.S.; authorizing a family
 4 member of a patient or an interested party to petition
 5 a court for the appointment of a guardian advocate;
 6 requiring a court to give preference to certain
 7 specified surrogates if such surrogate has already
 8 been designated by the patient; creating s. 397.803,
 9 F.S.; establishing the Substance Abuse Assistance
 10 Pilot Program within the Department of Children and
 11 Families; requiring the department to determine a
 12 target number of participants within available funds;
 13 providing the purpose of the pilot program; requiring
 14 the program to develop safe and cost efficient
 15 treatment alternatives and provide comprehensive case
 16 management services for eligible substance abuse
 17 impaired adults; authorizing participation in the
 18 program as an alternative to criminal imprisonment;
 19 requiring that each pilot program submit specified
 20 data to the department on a monthly basis; providing
 21 eligibility criteria; requiring that maximum
 22 enrollment be determined on the basis of available
 23 funding; requiring the department to contract with
 24 specified entities to serve as program managers;
 25 specifying the functions of the program manager;
 26 requiring the department to establish certain criteria
 27 and qualifications for the project manager; requiring
 28 a pilot program site to only have one network in the
 29 region; providing requirements for provider networks;

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30 specifying services that must be provided by a
 31 provider network; specifying that the primary payor
 32 for services provided through the program is the
 33 participant's private pay or Medicaid insurance
 34 coverage; allowing eligible participants to share in
 35 the cost of provided services based on ability to pay;
 36 requiring the department to provide an annual report
 37 to the Governor and Legislature evaluating the impact
 38 of the program; requiring such report to include
 39 specified information; transferring and renumbering s.
 40 765.401, F.S.; transferring and renumbering s.
 41 765.404, F.S.; providing a directive to the Division
 42 of Law Revision and Information; creating s. 765.4015,
 43 F.S.; providing a short title; creating s. 765.402,
 44 F.S.; providing legislative findings; creating s.
 45 765.403, F.S.; defining terms; creating s. 765.405,
 46 F.S.; authorizing an adult with capacity to execute a
 47 mental health or substance abuse treatment advance
 48 directive; providing a presumption of validity if
 49 certain requirements are met; providing for execution
 50 of the mental health or substance abuse treatment
 51 advanced directive; creating s. 765.406, F.S.;
 52 establishing requirements for a valid mental health or
 53 substance abuse treatment advance directive; providing
 54 that a mental health or substance abuse treatment
 55 directive is valid upon execution even if a part of
 56 the mental health or substance abuse treatment
 57 directive takes effect at a later date; allowing a
 58 mental health or substance abuse treatment directive

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59 to be revoked, in whole or in part, or to expire under
 60 its own terms; specifying that a mental health or
 61 substance abuse treatment advance directive does not
 62 or may not serve specified purposes; creating s.
 63 765.407, F.S.; providing circumstances under which a
 64 mental health or substance abuse treatment advance
 65 directive may be revoked; providing circumstances
 66 under which a principal may waive specific directive
 67 provisions without revoking the directive; creating s.
 68 765.408, F.S.; providing legislative findings and
 69 legislative intent for self-binding arrangements;
 70 providing requirements for creating such arrangements;
 71 creating s. 765.409, F.S.; specifying the conditions
 72 under which a principal may be admitted for inpatient
 73 mental health or substance abuse treatment; providing
 74 that creation of an irrevocable directive of consent
 75 to inpatient treatment creates a rebuttable
 76 presumption of incapacity; authorizing a principal to
 77 be admitted to, or remain in, inpatient treatment for
 78 up to 14 days; requiring express consent in a
 79 directive for the administration of psychotropic
 80 medication; requiring conditions for administering
 81 such medication; prohibiting a principal from
 82 authorizing psychosurgery or electroconvulsive therapy
 83 in a directive; authorizing a principal to seek
 84 specified injunctive relief; creating s. 765.410,
 85 F.S.; prohibiting criminal prosecution of a health
 86 care facility, provider, or surrogate who acts
 87 pursuant to a mental health or substance abuse

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88 treatment decision; creating s. 765.411, F.S.;
 89 providing for recognition of a mental health and
 90 substance abuse treatment advanced directive executed
 91 in another state if it complies with the laws of this
 92 state; amending ss. 395.0197, 395.1051, 456.0575,
 93 765.101, and 765.104, F.S.; conforming cross-
 94 references; reenacting ss. 394.459(3) (b), 394.4598(6)
 95 and (7), 394.4655(6) (d) and (7) (f), 394.467(6) (d),
 96 394.46715, and 765.202(5), F.S., to incorporate the
 97 amendment made to s. 394.4598, F.S., in references
 98 thereto; providing an effective date.
 99
 100 Be It Enacted by the Legislature of the State of Florida:
 101
 102 Section 1. Subsections (1) and (5) of section 394.4598,
 103 Florida Statutes, are amended to read:
 104 394.4598 Guardian advocate.—
 105 (1) The administrator, a family member of the patient, or
 106 an interested party, may petition the court for the appointment
 107 of a guardian advocate based upon the opinion of a psychiatrist
 108 that the patient is incompetent to consent to treatment. If the
 109 court finds that a patient is incompetent to consent to
 110 treatment and has not been adjudicated incapacitated and a
 111 guardian with the authority to consent to mental health
 112 treatment appointed, it shall appoint a guardian advocate. The
 113 patient has the right to have an attorney represent him or her
 114 at the hearing. If the person is indigent, the court shall
 115 appoint the office of the public defender to represent him or
 116 her at the hearing. The patient has the right to testify, cross-

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117 examine witnesses, and present witnesses. The proceeding shall
 118 be recorded either electronically or stenographically, and
 119 testimony shall be provided under oath. One of the professionals
 120 authorized to give an opinion in support of a petition for
 121 involuntary placement, as described in s. 394.4655 or s.
 122 394.467, must testify. A guardian advocate must meet the
 123 qualifications of a guardian contained in part IV of chapter
 124 744, except that a professional referred to in this part, an
 125 employee of the facility providing direct services to the
 126 patient under this part, a departmental employee, a facility
 127 administrator, or member of the Florida local advocacy council
 128 shall not be appointed. A person who is appointed as a guardian
 129 advocate must agree to the appointment.

130 (5) In selecting a guardian advocate, the court shall give
 131 preference to a health care, mental health care, or substance
 132 abuse treatment surrogate, if one has already been designated by
 133 the patient. If the patient has not previously selected a health
 134 care, mental health care, or substance abuse treatment
 135 surrogate, except for good cause documented in the court record,
 136 the selection shall be made from the following list in the order
 137 of listing:

138 (a) The patient's spouse.
 139 (b) An adult child of the patient.
 140 (c) A parent of the patient.
 141 (d) The adult next of kin of the patient.
 142 (e) An adult friend of the patient.
 143 (f) An adult trained and willing to serve as guardian
 144 advocate for the patient.
 145 Section 2. Section 397.803, Florida Statutes, is created to

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146 read:
 147 397.803 Substance Abuse Assistance Pilot Program.—
 148 (1) PILOT PROGRAM.—
 149 (a) There is created within the Department of Children and
 150 Families the Substance Abuse Assistance Pilot Program in such
 151 regions of the state as may be designated in the general
 152 appropriations act.
 153 (b) Within available funding, the department shall
 154 determine a target number of participants in each pilot program
 155 region.
 156 (c) The pilot program is created to determine whether the
 157 provision of comprehensive care through a coordinated system of
 158 case management that offers a range of recovery support services
 159 during and after treatment for acute episodes leads to increased
 160 employment, stability in housing, and decreased involvement in
 161 the criminal justice system on the part of participants.
 162 (d) The pilot program shall provide a comprehensive
 163 continuum of high-quality and accessible substance abuse
 164 intervention, residential and outpatient treatment,
 165 comprehensive case management, and recovery support services for
 166 substance abuse impaired adults.
 167 (e) The pilot program in each selected region shall develop
 168 safe and cost efficient treatment alternatives and provide
 169 comprehensive case management and continuum of care services for
 170 eligible substance abuse impaired adults.
 171 (f) Participation in the pilot program may be designated as
 172 an alternative to criminal imprisonment for substance abuse
 173 impaired adults, as appropriate.
 174 (g) Each pilot program region shall submit data to the

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175 department on a monthly basis that, at a minimum, reports
 176 characteristics of the participants, use of services, and such
 177 data as necessary to measure changes in participants' status
 178 with regard to housing, employment, and criminal activity.
 179 (2) ELIGIBILITY AND ENROLLMENT.—
 180 (a) To be eligible for participation in the pilot program,
 181 a person must:
 182 1. Be 18 years of age or older with a history of chronic
 183 substance abuse or addiction.
 184 2. Execute a mental health or substance abuse treatment
 185 directive as defined in s. 765.403. The directive must include a
 186 self-binding arrangement as specified in s. 765.408. In the
 187 event that an eligible participant does not have a family member
 188 or other adult available to serve as a surrogate as defined in
 189 s. 765.403, the entity under contract with the Statewide Public
 190 Guardianship Office in that region shall be appointed to serve
 191 as the surrogate.
 192 3. Eligible participants shall share responsibility for the
 193 costs of pilot program services according to their ability to
 194 pay, based on a sliding fee scale.
 195 (b) Maximum enrollment shall be determined by the
 196 department, based on available funding.
 197 (3) SYSTEM OF CARE; CASE MANAGEMENT; PAYMENT METHOD.—
 198 (a) The department shall contract with the Medicaid managed
 199 care organization or behavioral health managing entity operating
 200 in the applicable geographic region to serve as program manager.
 201 (b) The program manager is responsible for the following
 202 functions:
 203 1. Network management including recruitment and retention

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204 of an adequate number of qualified service providers to ensure
 205 accessibility and quality of care;
 206 2. Coordination of care, including the development and
 207 implementation of organizational structures and operational
 208 policies necessary to ensure that the network provides
 209 continuity of care and avoids unnecessary duplication of
 210 services;
 211 3. Comprehensive case management, which may be provided by
 212 the program manager or by a contracted service provider,
 213 including direct interaction with participants and other
 214 activities necessary to assess, plan, implement, and monitor the
 215 needed services; and
 216 4. Administrative functions for the network including, but
 217 not limited to, data management, financial management, and
 218 contract compliance.
 219 (c) The department shall establish criteria for ensuring
 220 that an adequate number of providers are included in the network
 221 and for provider qualifications, which shall be specified in the
 222 contract with the program manager. The pilot program shall be
 223 limited to one network in the region for the duration of the
 224 pilot program. The provider network shall:
 225 1. Offer a comprehensive range of services for substance
 226 abuse impaired or drug addicted adults.
 227 2. Enter into agreements with law enforcement agencies and
 228 the criminal justice system to divert nonviolent offenders with
 229 histories of serious substance abuse or chronic addiction into
 230 intensive treatment, comprehensive case management, and
 231 rehabilitation services.
 232 3. Enter into an agreement with the appropriate

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233 neighborhood housing services program to provide housing
 234 assistance to eligible participants.
 235 4. Enter into an agreement with the entity under contract
 236 with the Statewide Public Guardianship Office in the pilot
 237 program region to provide guardians to act in the capacity of
 238 surrogates for eligible participants who do not have family
 239 members or other adults available to perform such duties.
 240 5. Enter into an agreement with the applicable nonprofit
 241 local legal services organization serving the pilot program
 242 region to provide legal assistance to eligible participants.
 243 (4) SERVICES.—The network must be capable of providing, at
 244 a minimum, the following services to substance abuse impaired or
 245 drug addicted adults:
 246 1. Comprehensive case management and continuum of care
 247 coordination;
 248 2. Outpatient treatment services;
 249 3. Crisis care, including mobile response, and
 250 detoxification in short-term residential facilities;
 251 4. Inpatient treatment services;
 252 5. Step-down residential treatment services;
 253 6. Housing needs assessment and assistance;
 254 7. Employment assistance programs;
 255 8. Transportation needs assessment and assistance; and
 256 9. Legal services.
 257 (5) PAYMENT FOR SERVICES.—
 258 (a) The general revenue funds appropriated by the
 259 legislature for the purposes of this section shall be applied to
 260 payment for services only after an eligible participant's
 261 private pay or Medicaid insurance coverage has been exhausted.

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262 (b) An eligible participant may share in the cost of
 263 provided services based on his or her ability to pay.
 264 (6) ACCOUNTABILITY; ANNUAL REPORTS.—
 265 (a) By October 1 of each year, the department shall provide
 266 a written report to the Governor, the President of the Senate,
 267 and the Speaker of the House of Representatives which describes
 268 the operation and effectiveness of the pilot program. The report
 269 must include, but is not limited to, an evaluation of the impact
 270 of the following components of the program:
 271 1. Comprehensive case management;
 272 2. Care coordination and followup care;
 273 3. Housing initiatives; and
 274 4. Employment assistance.
 275 (b) The report must include a recommendation regarding the
 276 continuation, expansion, or termination of the pilot program.
 277 Section 3. Section 765.401, Florida Statutes, is
 278 transferred and renumbered as section 765.311, Florida Statutes.
 279 Section 4. Section 765.404, Florida Statutes, is
 280 transferred and renumbered as section 765.312, Florida Statutes.
 281 Section 5. The Division of Law Revision and Information is
 282 directed to rename part IV of chapter 765, Florida Statutes, as
 283 "Mental Health and Substance Abuse Advance Directives."
 284 Section 6. Section 765.4015 is created to read:
 285 765.4015 Short title.—Sections 765.402–765.411 may be cited
 286 as the "Jennifer Act."
 287 Section 7. Section 765.402, Florida Statutes, is created to
 288 read:
 289 765.402 Legislative findings.—
 290 (1) The Legislature recognizes that an individual with

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291 capacity has the ability to control decisions relating to his or
 292 her own mental health care or substance abuse treatment. The
 293 Legislature finds that:

294 (a) Substance abuse and some mental illnesses cause
 295 individuals to fluctuate between capacity and incapacity;
 296 (b) During periods when an individual's capacity is
 297 unclear, the individual may be unable to provide informed
 298 consent necessary to access needed treatment;
 299 (c) Early treatment may prevent an individual from becoming
 300 so ill that involuntary treatment is necessary; and
 301 (d) Individuals with substance abuse impairment or mental
 302 illness need an established procedure to express their
 303 instructions and preferences for treatment and provide advance
 304 consent to or refusal of treatment. This procedure should be
 305 less expensive and less restrictive than guardianship.

306 (2) The Legislature further recognizes that:

307 (a) A mental health or substance abuse treatment advance
 308 directive must provide the individual with a full range of
 309 choices.

310 (b) For a mental health or substance abuse directive to be
 311 an effective tool, individuals must be able to choose how they
 312 want their directives to be applied, including the right of
 313 revocation, during periods of incapacity.

314 (c) There must be a clear process so that treatment
 315 providers can abide by an individual's treatment choices.

316 Section 8. Section 765.403, Florida Statutes, is created to
 317 read:

318 765.403 Definitions.—As used in this section, the term:
 319 (1) "Adult" means any individual who has attained the age

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320 of majority or is an emancipated minor.

321 (2) "Capacity" means that an adult has not been found to be
 322 incapacitated pursuant to s. 394.463.

323 (3) "Health care facility" means a hospital, nursing home,
 324 hospice, home health agency, or health maintenance organization
 325 licensed in this state, or any facility subject to part I of
 326 chapter 394.

327 (4) "Incapacity" or "incompetent" means an adult who is:

328 (a) Unable to understand the nature, character, and
 329 anticipated results of proposed treatment or alternatives or the
 330 recognized serious possible risks, complications, and
 331 anticipated benefits of treatments and alternatives, including
 332 nontreatment;

333 (b) Physically or mentally unable to communicate a willful
 334 and knowing decision about mental health care or substance abuse
 335 treatment;

336 (c) Unable to communicate his or her understanding or
 337 treatment decisions; or

338 (d) Determined incompetent pursuant to s. 394.463.

339 (5) "Informed consent" means consent voluntarily given by a
 340 person after a sufficient explanation and disclosure of the
 341 subject matter involved to enable that person to have a general
 342 understanding of the treatment or procedure and the medically
 343 acceptable alternatives, including the substantial risks and
 344 hazards inherent in the proposed treatment or procedures or
 345 nontreatment, and to make knowing mental health care or
 346 substance abuse treatment decisions without coercion or undue
 347 influence.

348 (6) "Mental health or substance abuse treatment advance

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349 directive means a written document in which the principal makes
 350 a declaration of instructions or preferences or appoints a
 351 surrogate to make decisions on behalf of the principal regarding
 352 the principal's mental health or substance abuse treatment, or
 353 both.

354 (7) "Mental health professional" means a psychiatrist,
 355 psychologist, psychiatric nurse, or social worker, and such
 356 other mental health professionals licensed pursuant to chapter
 357 458, chapter 464, chapter 490, or chapter 491.

358 (8) "Principal" means a competent adult who executes a
 359 mental health or substance abuse treatment directive and on
 360 whose behalf mental health care or substance abuse treatment
 361 decisions are to be made.

362 (9) "Self-binding arrangement" means an affirmative
 363 statement, also known as a Ulysses Arrangement, contained within
 364 a mental health or substance abuse treatment directive, executed
 365 voluntarily by the principal, which allows the principal to form
 366 self-binding arrangements for mental health or substance abuse
 367 treatment as a means of ensuring early intervention and to avoid
 368 involuntary commitment. The inclusion of a self-binding
 369 arrangement is limited to directives executed by participants in
 370 a substance abuse assistance pilot program created pursuant to
 371 s. 397.803.

372 (10) "Surrogate" means any competent adult expressly
 373 designated by a principal to make mental health care or
 374 substance abuse treatment decisions on behalf of the principal
 375 as set forth in the principal's mental health or substance abuse
 376 treatment advance directive or self-binding arrangement as those
 377 terms are defined in this section.

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378
 379 Section 9. Section 765.405, Florida Statutes, is created to
 380 read:

381 765.405 Mental health or substance abuse treatment advance
 382 directive; execution; allowable provisions.—

383 (1) An adult with capacity may execute a mental health or
 384 substance abuse treatment advance directive.

385 (2) A directive executed in accordance with this section is
 386 presumed to be valid. The inability to honor one or more
 387 provisions of a directive does not affect the validity of the
 388 remaining provisions.

389 (3) A directive may include any provision relating to
 390 mental health or substance abuse treatment or the care of the
 391 principal or the principal's personal affairs. Without
 392 limitation, a directive may include:

393 (a) The principal's preferences and instructions for mental
 394 health or substance abuse treatment.

395 (b) Consent to specific types of mental health or substance
 396 abuse treatment.

397 (c) Refusal to consent to specific types of mental health
 398 or substance abuse treatment.

399 (d) Consent to admission to and retention in a facility for
 400 mental health or substance abuse treatment for up to 14 days.

401 Such consent must be an affirmative statement contained within
 402 the directive and must clearly indicate whether such consent is
 403 revocable by the principal during a mental health or substance
 404 abuse crisis.

405 (e) Descriptions of situations that may cause the principal
 406 to experience a mental health or substance abuse crisis.

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407 (f) Suggested alternative responses that may supplement or
 408 be in lieu of direct mental health or substance abuse treatment,
 409 such as treatment approaches from other providers.

410 (g) Appointment of a surrogate to make mental health or
 411 substance abuse treatment decisions on the principal's behalf.
 412 In the event the directive includes a self-binding arrangement
 413 allowing the surrogate authority to consent on the principal's
 414 behalf to voluntary admission to inpatient mental health or
 415 substance abuse treatment, such authority must be clearly stated
 416 in the directive.

417 (h) The principal's nomination of a guardian, limited
 418 guardian, or guardian advocate as provided chapter 744.

419 (4) A directive may be combined with or be independent of a
 420 nomination of a guardian or other durable power of attorney.

421 Section 10. Section 765.406, Florida Statutes, is created
 422 to read:

423 765.406 Execution of a mental health or substance abuse
 424 advanced directive; effective date; expiration.-

425 (1) A directive must:

426 (a) Be in writing.

427 (b) Contain language that clearly indicates that the
 428 principal intends to create a directive.

429 (c) Contain language that clearly indicates whether the
 430 principal intends for the surrogate to have the authority to
 431 provide consent on the principal's behalf to voluntary admission
 432 to inpatient mental health or substance abuse treatment and
 433 whether the principal's consent is revocable.

434 (d) Be dated and signed by the principal or, if the
 435 principal is unable to sign, at the principal's direction in the

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436 principal's presence.

437 (e) Be witnessed by two adults, each of whom must declare
 438 that he or she personally knows the principal and was present
 439 when the principal dated and signed the directive, and that the
 440 principal did not appear to be incapacitated or acting under
 441 fraud, undue influence, or duress. The person designated as the
 442 surrogate may not act as a witness to the execution of the
 443 document designating the mental health or substance abuse care
 444 treatment surrogate. At least one person who acts as a witness
 445 must be neither the principal's spouse nor his or her blood
 446 relative.

447 (2) A directive is valid upon execution, but all or part of
 448 the directive may take effect at a later date as designated by
 449 the principal in the directive.

450 (3) A directive may:

451 (a) Be revoked, in whole or in part, pursuant to s.
 452 765.407; or

453 (b) Expire under its own terms.

454 (4) A directive does not or may not:

455 (a) Create an entitlement to mental health, substance
 456 abuse, or medical treatment or supersede a determination of
 457 medical necessity.

458 (b) Obligate any health care provider, professional person,
 459 or health care facility to pay the costs associated with the
 460 treatment requested.

461 (c) Obligate a health care provider, professional person,
 462 or health care facility to be responsible for the nontreatment
 463 or personal care of the principal or the principal's personal
 464 affairs outside the scope of services the facility normally

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465 provides.466 (d) Replace or supersede any will or testamentary document
467 or supersede the provision of intestate succession.468 (e) Be revoked by an incapacitated principal unless that
469 principal selected the option to permit revocation while
470 incapacitated at the time his or her directive was executed.471 (f) Be used as the authority for inpatient admission for
472 more than 14 days.473 Section 11. Section 765.407, Florida Statutes, is created
474 to read:475 765.407 Revocation; waiver.—476 (1) (a) A principal with capacity may, by written statement
477 of the principal or at the principal's direction in the
478 principal's presence, revoke a directive in whole or in part.479 (b) An incapacitated principal may revoke a directive only
480 if he or she elected at the time of executing the directive to
481 be able to revoke when incapacitated.482 (2) The principal shall provide a copy of his or her
483 written statement of revocation to his or her agent, if any, and
484 to each health care provider, professional person, or health
485 care facility that received a copy of the directive from the
486 principal.487 (3) The written statement of revocation is effective as to
488 a health care provider, professional person, or health care
489 facility upon receipt. The professional person, health care
490 provider, or health care facility, or persons acting under their
491 direction, shall make the statement of revocation part of the
492 principal's medical record.493 (4) A directive also may:

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494 (a) Be revoked, in whole or in part, expressly or to the
495 extent of any inconsistency, by a subsequent directive; or496 (b) Be superseded or revoked by a court order, including
497 any order entered in a criminal matter. A directive may be
498 superseded by a court order regardless of whether the order
499 contains an explicit reference to the directive. A directive may
500 not be interpreted in a manner that interferes with:501 1. Incarceration or detention by the Department of
502 Corrections or in a municipal or county jail; or503 2. Treatment of a principal who is a subject to involuntary
504 treatment pursuant to chapter 394.505 (5) A directive that would have otherwise expired but is
506 effective because the principal is incapacitated remains
507 effective until the principal is no longer incapacitated unless
508 the principal elected to be able to revoke while incapacitated
509 and has revoked the directive.510 (6) When a principal with capacity consents to treatment
511 that differs from, or refuses treatment consented to in, his or
512 her directive, the consent or refusal constitutes a waiver of a
513 particular provision and does not constitute a revocation of the
514 provision or the directive unless that principal also revokes
515 the provision or directive.516 Section 12. Section 765.408, Florida Statutes, is created
517 to read:518 765.408 Self-binding arrangements.—519 (1) The Legislature finds that each competent adult has the
520 fundamental right of self-determination regarding decisions
521 pertaining to his or her own mental health care or substance
522 abuse treatment decisions.

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- 523 (2) The Legislature further finds that the facilitation of
 524 advance planning helps:
- 525 (a) Prevent unnecessary involuntary commitment and
 526 incarceration;
- 527 (b) Improve patient safety and health; and
 528 (c) Improve care and enable patients to exercise control
 529 over their treatment.
- 530 (3) To ensure such right is not lost or diminished, the
 531 Legislature intends that a procedure be established to allow a
 532 person to plan for episodes that compromise his or her ability
 533 to recognize his or her need for treatment before meeting
 534 involuntary commitment criteria. The principal must include a
 535 specific provision in his or her mental health and substance
 536 abuse advance directive authorizing the surrogate to direct the
 537 course of his or her mental health or substance abuse treatment.
- 538 (4) A principal has a right to form a self-binding
 539 arrangement for care, which allows the principal to obtain
 540 treatment in the event that an acute episode renders him or her
 541 unable to provide consent to or induces the principal to refuse
 542 treatment. Such arrangement must be affirmatively stated in the
 543 directive and include whether the principal has the right of
 544 revocation during an acute episode.
- 545 (5) To create an arrangement under this section, the
 546 principal must obtain a written, signed attestation of capacity
 547 from a health care professional, mental health care provider, or
 548 health care facility.
- 549 (6) A self-binding arrangement must:
- 550 (a) Be in writing.
- 551 (b) Be dated and signed by the principal or the principal's

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- 552 designated representative if the principal is unable to sign.
- 553 (c) State whether the principal wishes to be able to revoke
 554 the directive at any time or whether directive remains
 555 irrevocable when the principal is unable to consent to treatment
 556 or is incapacitated. Failure to clarify whether the directive is
 557 revocable does not render it unenforceable. If the directive
 558 fails to state whether it is revocable, the principal may revoke
 559 it at any time.
- 560 (d) Contain a clear affirmation that the principal is aware
 561 of the nature of the document signed and that the directive was
 562 signed freely and voluntarily.
- 563 (e) Be witnessed by at least two adults. A witness may not
 564 be:
- 565 1. A member of the principal's treatment team;
 566 2. Related to the principal by blood, adoption, or
 567 marriage;
- 568 3. Be in a romantic or dating relationship with the
 569 principal;
- 570 4. The surrogate named by the principal in the signed
 571 directive; or
- 572 5. The owner, operator, or employee of, or a relative of
 573 the owner or operator of, a treatment facility in which the
 574 principal is a patient.
- 575 (f) Be witnessed by persons who attest that:
- 576 1. They were present when the principal signed the
 577 directive;
- 578 2. The principal did not appear incapacitated or under
 579 undue influence or duress when the principal signed the
 580 directive; and

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581 3. The principal presented identification or the witness
 582 personally knows the principal.
 583 (g) If it contains a provision that the directive is
 584 irrevocable, contain a written, signed attestation from a mental
 585 health professional that the principal had capacity at the time
 586 the directive was executed. If the principal is free to revoke
 587 the directive at any time, such attestation is not required.
 588 (h) Be valid upon execution.
 589 (i) Contain a designated activation standard other than the
 590 principal's inability to provide consent or incapacity by
 591 describing the circumstances under which the directive becomes
 592 active.
 593 (j) Affirmatively state that despite activation, a
 594 directive does not prevail over contemporaneous preferences
 595 expressed by a principal who has the ability to consent to
 596 treatment or capacity and has not included a self-binding
 597 arrangement provision in the directive.
 598 (k) Appoint a surrogate to make all health care and
 599 substance abuse treatment decisions for the principal, including
 600 decisions to consent on behalf of the principal to inpatient
 601 mental health or substance abuse treatment.
 602 (l) Contain a provision that decisions made by a surrogate
 603 for a principal's mental health care or substance abuse
 604 treatment are effective without judicial approval.
 605 Section 13. Section 765.409, Florida Statutes, is created
 606 to read:
 607 765.409 Admission to inpatient treatment; effect of
 608 directive.-
 609 (1) A principal may be admitted for inpatient mental health

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610 or substance abuse treatment only if he or she:
 611 (a) Chose not to be able to revoke his or her directive
 612 during any period of inability to provide consent or incapacity;
 613 (b) Consented to voluntary admission to inpatient mental
 614 health or substance abuse treatment, or authorized a surrogate
 615 to consent on the principal's behalf;
 616 (c) At the time of admission to inpatient treatment,
 617 refuses to be admitted; and
 618 (d) The principal created an irrevocable directive that
 619 consents to treatment and which the principal is refusing under
 620 the influence of a mental health or substance abuse crisis.
 621 (2) The creation of an irrevocable directive of consent to
 622 inpatient treatment creates a rebuttable presumption of
 623 incapacity.
 624 (3) (a) The principal may only be admitted to, or remain in,
 625 inpatient treatment for a period of up to 14 days.
 626 (b) The principal's directive must contain express consent
 627 to the administration of psychotropic medication in
 628 contravention of illness-induced objections. Such medication may
 629 be administered by licensed psychiatrists and only if two
 630 psychiatrists recommend, in writing, the specific medication.
 631 (c) The principal is prohibited from authorizing
 632 psychosurgery or electroconvulsive therapy in his or her
 633 directive.
 634 (d) The principal may seek injunctive relief for release
 635 from the inpatient facility.
 636 Section 14. Section 765.410, Florida Statutes, is created
 637 to read:
 638 765.410 Immunity from liability; weight of proof;

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639 presumption.

640 (1) A health care facility, provider, or other person who
 641 acts under the direction of a health care facility or provider
 642 is not subject to criminal prosecution or civil liability, and
 643 may not be deemed to have engaged in unprofessional conduct, as
 644 a result of carrying out a mental health care or substance abuse
 645 treatment decision made in accordance with this section. The
 646 surrogate who makes a mental health care or substance abuse
 647 treatment decision on a principal's behalf, pursuant to this
 648 section, is not subject to criminal prosecution or civil
 649 liability for such action.

650 (2) This section applies unless it is shown by a
 651 preponderance of the evidence that the person authorizing or
 652 effectuating a mental health or substance abuse treatment
 653 decision did not, in good faith, comply with this section.

654 Section 15. Section 765.411, Florida Statutes, is created
 655 to read:

656 765.411 Recognition of mental health and substance abuse
 657 treatment advance directive executed in another state.—A mental
 658 health or substance abuse treatment advance directive executed
 659 in another state in compliance with the law of that state is
 660 validly executed for the purposes of this chapter.

661 Section 16. Paragraph (d) of subsection (1) of section
 662 395.0197, Florida Statutes, is amended to read:

663 395.0197 Internal risk management program.—

664 (1) Every licensed facility shall, as a part of its
 665 administrative functions, establish an internal risk management
 666 program that includes all of the following components:

667 (d) A system for informing a patient or an individual

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668 identified pursuant to s. 765.311(1) ~~765.401(1)~~ that the patient
 669 was the subject of an adverse incident, as defined in subsection
 670 (5). Such notice shall be given by an appropriately trained
 671 person designated by the licensed facility as soon as
 672 practicable to allow the patient an opportunity to minimize
 673 damage or injury.

674 Section 17. Section 395.1051, Florida Statutes, is amended
 675 to read:

676 395.1051 Duty to notify patients.—An appropriately trained
 677 person designated by each licensed facility shall inform each
 678 patient, or an individual identified pursuant to s. 765.311(1)
 679 ~~765.401(1)~~, in person about adverse incidents that result in
 680 serious harm to the patient. Notification of outcomes of care
 681 that result in harm to the patient under this section shall not
 682 constitute an acknowledgment or admission of liability, nor can
 683 it be introduced as evidence.

684 Section 18. Section 456.0575, Florida Statutes, is amended
 685 to read:

686 456.0575 Duty to notify patients.—Every licensed health
 687 care practitioner shall inform each patient, or an individual
 688 identified pursuant to s. 765.311(1) ~~765.401(1)~~, in person about
 689 adverse incidents that result in serious harm to the patient.
 690 Notification of outcomes of care that result in harm to the
 691 patient under this section shall not constitute an
 692 acknowledgment of admission of liability, nor can such
 693 notifications be introduced as evidence.

694 Section 19. Subsection (15) of section 765.101, Florida
 695 Statutes, is amended to read:

696 765.101 Definitions.—As used in this chapter:

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697 (15) "Proxy" means a competent adult who has not been
698 expressly designated to make health care decisions for a
699 particular incapacitated individual, but who, nevertheless, is
700 authorized pursuant to s. 765.311 ~~765.401~~ to make health care
701 decisions for such individual.

702 Section 20. Subsection (4) of section 765.104, Florida
703 Statutes, is amended to read:

704 765.104 Amendment or revocation.—

705 (4) Any patient for whom a medical proxy has been
706 recognized under s. 765.311 ~~765.401~~ and for whom any previous
707 legal disability that precluded the patient's ability to consent
708 is removed may amend or revoke the recognition of the medical
709 proxy and any uncompleted decision made by that proxy. The
710 amendment or revocation takes effect when it is communicated to
711 the proxy, the health care provider, or the health care facility
712 in writing or, if communicated orally, in the presence of a
713 third person.

714 Section 21. Paragraph (b) of subsection (3) of s. 394.459,
715 subsections (6) and (7) of s. 394.4598, paragraph (d) of
716 subsection (6) and paragraph (f) of subsection (7) of s.
717 394.4655, paragraph (d) of subsection (6) of s. 394.467, s.
718 394.46715, and subsection (5) of s. 765.202, Florida Statutes,
719 are reenacted for the purpose of incorporating the amendments
720 made to s. 394.4598, Florida Statutes.

721 Section 22. This act shall take effect July 1, 2015.

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 1462

INTRODUCER: Senator Bradley

SUBJECT: Behavioral Health Services

DATE: March 16, 2015

REVISED: _____

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

I. Summary:

SB 1462 authorizes counties to provide funds for voluntary, pretrial treatment-based mental health court programs. Contingent on an annual appropriation, the bill allows each judicial circuit with a treatment-based mental health court to establish at least one position to coordinate the responsibilities of participating agencies and service providers. The bill adds members from specified organizations to serve on the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee. Managing entities are directed to establish enrollment prioritization criteria for substance abuse and mental health services

The bill requires managing entities to collect specified utilization data in real time or at least daily and review the data for accuracy. Managing entities must submit data to the Department of Children and Families (DCF) on a monthly and annual basis. The department is required to create a statewide database for the purpose of analyzing the payments for and the use of state-funded crisis stabilization services.

The Agency for Health Care Administration (AHCA) is directed to submit a federal waiver or a Medicaid state plan amendment for the provision of health homes for individuals with chronic conditions, including severe mental illnesses or substance use disorders. The agency is also directed to apply to the federal government for a planning grant that creates opportunity for improved access to community mental health services.

The effective date of the bill is July 1, 2015. The fiscal impact of approximately \$175,000 would be a cost for the five Managing Entities to expand current data capabilities.

II. Present Situation:

Mental health courts are a type of problem solving court that combine judicial supervision with community mental health treatment and other support services in order to reduce criminal activity and improve the quality of life of participants. Mental health court programs are not established or defined in Florida Statutes. A key objective of mental health courts is to prevent

the jailing of offenders with mental illness by diverting them to appropriate community services or to significantly reduce time spent incarcerated. As of October 2014, Florida had 26 mental health courts operating in 16 circuits.

The Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program currently exists within the DCF. The purpose of the program is to provide funding to counties with which they can 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 system. The Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee is comprised of membership from the Department of Children and Families, the Department of Corrections, the Department of Juvenile Justice, the Department of Elderly Affairs, and the Office of the State Courts Administrator.

The department currently contracts for the purchase and management of the day-to-day operational delivery of behavioral health services with community-based Managing Entities (ME) who contract with direct service agencies called provider networks. The provider networks constitute an array of emergency, acute care, residential, outpatient and recovery support services. Section 394.674, F.S., establishes the eligibility requirements for receiving substance abuse and mental health services funded by DCF, and identifies the department's priority populations that are eligible for services.¹

Individuals experiencing severe emotional or behavioral problems often require emergency treatment to stabilize their situations before referral for outpatient services or inpatient services can occur. Emergency mental health stabilization services may be provided to individuals on a voluntary or involuntary basis. Individuals receiving services on an involuntary basis must be taken to a facility that has been designated by the department as a "receiving facility" as defined in part I of ch. 394, F.S.²

Receiving facilities, often referred to as Baker Act Receiving Facilities, are public or private facilities designated by DCF for the purposes of receiving and examining individuals on an involuntary basis under emergency conditions and to provide short-term treatment. Receiving facilities that have a contract with one of DCF's MEs to provide mental health services to all persons, regardless of their ability to pay, and that are receiving state funds for this purpose, are considered public receiving facilities.³

Crisis Stabilization Units (CSUs) are public receiving facilities that receive state funding and provide a less intensive and less costly alternative to inpatient psychiatric hospitalizations for individuals presenting as acutely mentally ill. CSUs screen, assess, and admit individuals brought to the unit under the Baker Act, as well as those individuals who voluntarily present themselves, for short-term services.⁴ CSUs provide services 24 hours a day, 7 days a week, through a team of mental health professionals. The purpose of the CSU is to examine, stabilize,

¹ Section 394.674(4), F.S.

² Section 394.455(26), F.S.

³ Section 394.455(25), F.S.

⁴ Section 394.875, F.S.

and redirect people to the most appropriate and least restrictive treatment settings, consistent with their mental health needs. Individuals often enter the public mental health system through CSUs.⁵ Managing entities must follow current statutes and rules that require CSUs to be paid for bed availability rather than utilization.

Section 394.461(4), F.S., directs facilities designated as public receiving or treatment facilities to report to DCF on an annual basis for following data, unless the data are currently being submitted to the AHCA:

- Number of licensed beds.
- Number of contract days.
- Number of admissions by payor class and diagnoses.
- Number of bed days by payor class.
- Average length of stay by payor class.
- Total revenues by payor class.

The department must issue an annual report based on the data required including individual facility data and statewide totals. The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

As of December 2014, there are 53 public receiving facilities with 2,040 beds and 67 private receiving facilities with 3,165 beds. Based on the Florida Mental Health Institute's Annual Report of Baker Act Data Summary for 2013, released May 2014, in calendar year 2013, 171,744 involuntary examinations were initiated

III. Effect of Proposed Changes:

Section 1 creates s. 394.47892, F.S., to allow a county to fund treatment-based mental health programs. Persons in the justice system assessed with a mental illness will receive treatment services tailored to their individual needs. Pre-trial intervention programs may be included and participation in the treatment-based mental health program is voluntary. Post adjudication participation in the program is based on the sentencing court's assessment of specific criteria including the defendant's agreement to enter into the program.

The bill allows, based on an annual appropriation, for each judicial circuit that creates a treatment-based mental health court program to establish at least one coordinator position that coordinates the responsibilities of participating agencies and service providers. Counties that choose to fund the court program must secure funding from sources other than the state for costs not otherwise assumed by the state. Additionally, the chief judge in each circuit may establish an advisory committee for the treatment-based mental health court program.

Section 2 amends s. 394.656, F.S., to direct DCF to add specified individuals to the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee. The committee is to serve as an advisory body to review policy and funding issues to reduce the impact on communities and the court system by persons with mental illness and substance abuse disorders. Additionally, DCF is directed to create a grant review and selection committee which

⁵ Appro. Subcommittee on Health and Human Services, The Florida Senate, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011).

members shall have expertise in the grant content areas such as substance abuse and mental health disorders, community corrections and law enforcement. The bill allows not-for-profit community providers designated by a local county planning council or committee to apply for a 3-year implementation or expansion grant.

Section 3 amends s. 304.9082, F.S., directing DCF to establish enrollment criteria to be implemented by the managing entities. The managing entities are directed to establish a process for the enrollment of the state's priority substance abuse and mental health population into appropriate services.

The bill directs the DCF to develop, implement, and maintain standards under which a behavioral health managing entity must collect utilization data from all public receiving facilities within its geographic service area. For those purposes, the bill defines "public receiving facility" as an entity that meets the licensure requirements of and is designated by the DCF to operate as a public receiving facility under s. 394.875, F.S., and which is operating as a licensed crisis stabilization unit.

The bill requires the DCF to develop standards for managing entities and public receiving facilities to be used for data collection, storage, transmittal, and analysis. The standards must allow for compatibility of data and data transmittal. The DCF must require managing entities to comply with the bill's requirements for data collection by August 1, 2015.

A managing entity must require a public receiving facility within its provider network to submit data, in real time or at least daily, for:

- All admissions and discharges of clients receiving public receiving facility services who qualify as indigent as defined in s. 394.4787, F.S.; and
- Current active census of total licensed beds, the number of beds purchased by the DCF, the number of clients qualifying as indigent occupying those beds, and the total number of unoccupied licensed beds regardless of funding.

A managing entity must require a public receiving facility within its provider network to submit data on a monthly basis which aggregates the daily data previously submitted. The managing entity must reconcile the data in the monthly submission to the daily data to check for consistency. If the monthly aggregate data is inconsistent with the daily data, the managing entity must consult with the public receiving facility to make corrections as necessary to ensure accurate data.

After ensuring accurate data, the managing entity must submit the data to DCF on a monthly and annual basis. The department is required to create a statewide database for the purpose of analyzing the payments for and the use of crisis stabilization services on a statewide basis and on an individual public receiving facility basis.

The department is required to submit a report by January 31, 2016, and annually thereafter, to the Governor, the President of the Senate and the Speaker of the House of Representatives, which provides details on the bill's implementation, including the status of the data collection process

and a detailed analysis of the data collected. The department is required to adopt rules to implement the provisions of this bill.

Section 4 amends s. 409.906, F.S., to direct the AHCA to submit a federal waiver or a Medicaid state plan amendment for the provision of health homes for individuals with chronic conditions, including severe mental illness and substance use disorders. Health home providers are to be reimbursed for the delivery of primary care and other core services and the agency shall direct its managed care plans to incorporate health home providers into their networks.

To be eligible for participation in the health home program, a Medicaid beneficiary must:

- Have at least two chronic health conditions;
- Must have one chronic health condition and is at risk of having a second chronic health condition; or
- Must have one serious and persistent mental health condition.

The health home providers must meet certain standards developed by the Joint Commission or the Commission on Accreditation of Rehabilitation Facilities and be a behavioral health organization that provides specified services to assist individuals in addressing behavioral health care needs.

Section 5 amends s. 29.004, F.S., to allow state courts, from state revenues appropriated by general law, to provide service referral, coordination, monitoring, and tracking for treatment-based mental health court programs as part of case management.

Section 6 amends s. 39.001, F.S., to add treatment services for mental illness to the state's dependency system and encourage the use of the treatment-based mental health courts and drug courts to assess children and parents who have custody or are requesting custody of children. A court may require participation in treatment, a treatment-based mental health court program or a treatment-based drug court program following adjudication of dependency but participation before adjudication is voluntary.

Section 7 amends s. 39.507, F.S., to allow courts, after an adjudication of dependency or a finding of dependency where adjudication is withheld, to order a person who has or is requesting custody of the child to submit to a mental health or substance abuse disorder evaluation. In addition to DCF, the court may oversee progress and compliance with treatment by the person with, or who is requesting, custody of a child.

Section 8 amends s. 39.521, F.S., to allow courts, after a disposition hearing and adjudication of dependency of a child, to require persons with or who are requesting custody of the child to submit to a mental health or substance abuse disorder evaluation. The may court may also require and supervise such person's participation and compliance with necessary treatment and services, including participation in a treatment-based mental health court program.

Section 9 creates an unnumbered section of statute to direct the AHCA to apply to the federal government for a planning grant and other grant programs that become available that create opportunity to improve access to community mental health services while improving Medicaid reimbursement rates for such services.

Section 10 provides an effective date of July 1, 2015, for the bill.

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:

Private providers could see increased payments if efforts to obtain a Medicaid waiver from the federal government are successful for coverage of health homes.

C. Government Sector Impact:

The DCF estimates it would cost approximately \$175,000 to expand the data capabilities of five MEs. Two MEs report already having these capabilities at an estimated cost of \$35,000 each. The department's Office of Information Technology Services would need to create a mechanism to receive the utilization data from the MEs and store it in a database; however, the cost could be absorbed within current agency resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.656, 394.9082, 409.906, 29.004, 39.001, 39.507, and 39.521.

This bill creates section 394.4782 of the Florida Statutes.
This bill creates a section of Florida Statutes that is undesignated.

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.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 394.47891, Florida Statutes, is amended
to read:

394.47891 Military veterans and servicemembers court
programs.—The chief judge of each judicial circuit may establish
a Military Veterans and Servicemembers Court Program under which
veterans, as defined in s. 1.01, including veterans who were



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11 discharged or released under a general discharge, and
12 servicemembers, as defined in s. 250.01, who are convicted of a
13 criminal offense and who suffer from a military-related mental
14 illness, traumatic brain injury, substance abuse disorder, or
15 psychological problem can be sentenced in accordance with
16 chapter 921 in a manner that appropriately addresses the
17 severity of the mental illness, traumatic brain injury,
18 substance abuse disorder, or psychological problem through
19 services tailored to the individual needs of the participant.
20 Entry into any Military Veterans and Servicemembers Court
21 Program must be based upon the sentencing court's assessment of
22 the defendant's criminal history, military service, substance
23 abuse treatment needs, mental health treatment needs,
24 amenability to the services of the program, the recommendation
25 of the state attorney and the victim, if any, and the
26 defendant's agreement to enter the program.

27 Section 2. Section 394.47892, Florida Statutes, is created
28 to read:

29 394.47892 Treatment-based mental health court programs.—

30 (1) Each county may fund a treatment-based mental health
31 court program under which persons in the justice system assessed
32 with a mental illness will be processed in such a manner as to
33 appropriately address the severity of the identified mental
34 health problem through treatment services tailored to the
35 individual needs of the participant. The Legislature intends to
36 encourage the Department of Corrections, the Department of
37 Children and Families, the Department of Juvenile Justice, the
38 Department of Health, the Department of Law Enforcement, the
39 Department of Education, and such agencies, local governments,



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40 law enforcement agencies, other interested public or private
41 sources, and individuals to support the creation and
42 establishment of these problem-solving court programs.
43 Participation in the treatment-based mental health court
44 programs does not divest any public or private agency of its
45 responsibility for a child or adult, but enables these agencies
46 to better meet their needs through shared responsibility and
47 resources.

48 (2) Entry into any pretrial treatment-based mental health
49 court program is voluntary.

50 (3) (a) Entry into any postadjudicatory treatment-based
51 mental health court program as a condition of probation or
52 community control pursuant to s. 948.01 or s. 948.06 must be
53 based upon the sentencing court's assessment of the defendant's
54 criminal history, mental health screening outcome, amenability
55 to the services of the program, the recommendation of the state
56 attorney and the victim, if any, and the defendant's agreement
57 to enter the program.

58 (b) An offender who is sentenced to a postadjudicatory
59 treatment-based mental health court program and who, while a
60 mental health court program participant, is the subject of a
61 violation of probation or community control under s. 948.06
62 shall have the violation of probation or community control heard
63 by the judge presiding over the postadjudicatory treatment-based
64 mental health court program. The judge shall dispose of any such
65 violation, after a hearing on or admission of the violation, as
66 he or she deems appropriate if the resulting sentence or
67 conditions are lawful.

68 (4) Treatment-based mental health court programs may



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69 include pretrial intervention programs as provided in s. 948.08,
70 treatment-based mental health court programs authorized in
71 chapter 39, postadjudicatory programs as provided in ss. 948.01
72 and 948.06, and review of the status of compliance or
73 noncompliance of sentenced offenders through a treatment-based
74 mental health court program.

75 (5) Contingent upon an annual appropriation by the
76 Legislature, each judicial circuit with a treatment-based mental
77 health court program shall establish, at a minimum, one
78 coordinator position for the treatment-based mental health court
79 program within the state courts system to coordinate the
80 responsibilities of the participating agencies and service
81 providers. Each coordinator shall provide direct support to the
82 treatment-based mental health court program by providing
83 coordination between the multidisciplinary team and the
84 judiciary, providing case management, monitoring compliance of
85 the participants in the treatment-based mental health court
86 program with court requirements, and providing program
87 evaluation and accountability.

88 (6) If a county chooses to fund a treatment-based mental
89 health court program, the county must secure funding from
90 sources other than the state for those costs not otherwise
91 assumed by the state pursuant to s. 29.004. However, this does
92 not preclude a county from using treatment and other service
93 funding provided through state executive branch agencies.
94 Counties may provide, by interlocal agreement, for the
95 collective funding of these programs.

96 (7) The chief judge of each judicial circuit may appoint an
97 advisory committee for the treatment-based mental health court



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98 program. The committee shall be composed of the chief judge, or
99 his or her designee, who shall serve as chair; the judge of the
100 treatment-based mental health court program, if not otherwise
101 designated by the chief judge as his or her designee; the state
102 attorney, or his or her designee; the public defender, or his or
103 her designee; the treatment-based mental health court program
104 coordinators; community representatives; treatment
105 representatives; and any other persons the chair finds are
106 appropriate.

107 Section 3. Section 394.656, Florida Statutes, is amended to
108 read:

109 394.656 Criminal Justice, Mental Health, and Substance
110 Abuse Reinvestment Grant Program.—

111 (1) There is created within the Department of Children and
112 Families the Criminal Justice, Mental Health, and Substance
113 Abuse Reinvestment Grant Program. The purpose of the program is
114 to provide funding to counties with which they can plan,
115 implement, or expand initiatives that increase public safety,
116 avert increased spending on criminal justice, and improve the
117 accessibility and effectiveness of treatment services for adults
118 and juveniles who have a mental illness, substance abuse
119 disorder, or co-occurring mental health and substance abuse
120 disorders and who are in, or at risk of entering, the criminal
121 or juvenile justice systems.

122 (2) The department shall establish a Criminal Justice,
123 Mental Health, and Substance Abuse Statewide Grant Review
124 Committee. The committee shall include:

125 (a) One representative of the Department of Children and
126 Families;



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- 127 (b) One representative of the Department of Corrections;
128 (c) One representative of the Department of Juvenile
129 Justice;
130 (d) One representative of the Department of Elderly
131 Affairs; ~~and~~
132 (e) One representative of the Office of the State Courts
133 Administrator;
134 (f) One representative of the Department of Veterans'
135 Affairs;
136 (g) One representative of the Florida Sheriffs Association;
137 (h) One representative of the Florida Police Chiefs
138 Association;
139 (i) One representative of the Florida Association of
140 Counties;
141 (j) One representative of the Florida Alcohol and Drug
142 Abuse Association; and
143 (k) One representative from the Florida Council for
144 Community Mental Health.

145
146 The committee shall serve as the advisory body to review policy
147 and funding issues that help reduce the impact of persons with
148 mental illness and substance abuse disorders on communities and
149 the court system. The committee shall advise the department in
150 selecting priorities for applying and reviewing grants and
151 investing awarded grant moneys.

152 (3) In addition to the committee established pursuant to
153 subsection (2), the department shall create a grant review and
154 selection committee. To the extent possible, the members of the
155 grant review and selection committee shall have expertise in the



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156 content areas relating to grant applications, including, but not
157 limited to, substance abuse and mental health disorders,
158 community corrections, and law enforcement. In addition, members
159 shall have experience in ~~grant writing,~~ grant reviewing, and
160 grant application scoring.

161 (4) (a) ~~(3) (a)~~ A county, or a not-for-profit community
162 provider designated by a local county planning council or
163 committee described in s. 394.657, may apply for a ~~1-year~~
164 ~~planning grant or a~~ 3-year implementation or expansion grant.
165 The purpose of the grants is to demonstrate that investment in
166 treatment efforts related to mental illness, substance abuse
167 disorders, or co-occurring mental health and substance abuse
168 disorders results in a reduced demand on the resources of the
169 judicial, corrections, juvenile detention, and health and social
170 services systems.

171 (b) To be eligible to receive a ~~1-year planning grant or a~~
172 3-year implementation or expansion grant, a county applicant
173 must have a county planning council or committee that is in
174 compliance with the membership requirements set forth in this
175 section.

176 (5) ~~(4)~~ The Criminal Justice, Mental Health, and Substance
177 Abuse Statewide Grant Review Committee shall notify the
178 Department of Children and Families in writing of the names of
179 the applicants who have been selected by the committee to
180 receive a grant. Contingent upon the availability of funds and
181 upon notification by the ~~review~~ committee of those applicants
182 approved to receive ~~planning,~~ implementation, or expansion
183 grants, the Department of Children and Families may transfer
184 funds appropriated for the grant program to an approved



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185 applicant any county awarded a grant.

186 Section 4. Present paragraphs (b) through (g) of subsection
187 (7) of section 394.9082, Florida Statutes, are redesignated as
188 paragraphs (c) through (h), respectively, a new paragraph (b) is
189 added to that subsection, present paragraphs (c) and (d) of that
190 subsection are amended, present subsections (10) and (11) of
191 that section are redesignated as subsections (11) and (12),
192 respectively, and a new subsection (10) is added to that
193 section, to read:

194 394.9082 Behavioral health managing entities.—

195 (7) MANAGING ENTITY REQUIREMENTS.—The department may adopt
196 rules and standards and a process for the qualification and
197 operation of managing entities which are based, in part, on the
198 following criteria:

199 (b) The managing entity shall support network providers to
200 offer comprehensive and coordinated care to all persons in need,
201 but may develop a prioritization framework when necessary to
202 make the best use of limited resources. Priority populations
203 include:

204 1. Individuals in crisis stabilization units who are on the
205 waitlist for placement in a state treatment facility;

206 2. Individuals in state treatment facilities on the
207 waitlist for community care;

208 3. Parents or caretakers with child welfare involvement;

209 4. Individuals with multiple arrests and incarceration as a
210 result of their behavioral health condition; and

211 5. Individuals with behavioral health disorders and
212 comorbidities consistent with the characteristics of patients in
213 the region's population of behavioral health service users who



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214 account for a disproportionately high percentage of service
215 expenditures.

216 (d)~~(e)~~ A managing entity must submit a network management
217 plan and budget in a form and manner determined by the
218 department. The plan must detail the means for implementing the
219 duties to be contracted to the managing entity and the
220 efficiencies to be anticipated by the department as a result of
221 executing the contract. The department may require modifications
222 to the plan and must approve the plan before contracting with a
223 managing entity. The department may contract with a managing
224 entity that demonstrates readiness to assume core functions, and
225 may continue to add functions and responsibilities to the
226 managing entity's contract over time as additional competencies
227 are developed as identified in paragraph (h) ~~(g)~~.

228 Notwithstanding other provisions of this section, the department
229 may continue and expand managing entity contracts if the
230 department determines that the managing entity meets the
231 requirements specified in this section.

232 (e)~~(d)~~ Notwithstanding paragraphs (c) ~~(b)~~ and (d) ~~(e)~~, a
233 managing entity that is currently a fully integrated system
234 providing mental health and substance abuse services, Medicaid,
235 and child welfare services is permitted to continue operating
236 under its current governance structure as long as the managing
237 entity can demonstrate to the department that consumers, other
238 stakeholders, and network providers are included in the planning
239 process.

240 (10) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—
241 The department shall develop, implement, and maintain standards
242 under which a managing entity shall collect utilization data



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243 from all public receiving facilities situated within its
244 geographic service area. As used in this subsection, the term
245 "public receiving facility" means an entity that meets the
246 licensure requirements of and is designated by the department to
247 operate as a public receiving facility under s. 394.875 and that
248 is operating as a licensed crisis stabilization unit.

249 (a) The department shall develop standards and protocols
250 for managing entities and public receiving facilities to use in
251 the collection, storage, transmittal, and analysis of data. The
252 standards and protocols must allow for compatibility of data and
253 data transmittal between public receiving facilities, managing
254 entities, and the department for the implementation and
255 requirements of this subsection. The department shall require
256 managing entities contracted under this section to comply with
257 this subsection by August 1, 2015.

258 (b) A managing entity shall require a public receiving
259 facility within its provider network to submit data to the
260 managing entity, in real time or at least daily, for:

261 1. All admissions and discharges of clients receiving
262 public receiving facility services who qualify as indigent, as
263 defined in s. 394.4787; and

264 2. Current active census of total licensed beds, the number
265 of beds purchased by the department, the number of clients
266 qualifying as indigent occupying those beds, and the total
267 number of unoccupied licensed beds regardless of funding.

268 (c) A managing entity shall require a public receiving
269 facility within its provider network to submit data, on a
270 monthly basis, to the managing entity which aggregates the daily
271 data submitted under paragraph (b). The managing entity shall



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272 reconcile the data in the monthly submission to the data
273 received by the managing entity under paragraph (b) to check for
274 consistency. If the monthly aggregate data submitted by a public
275 receiving facility under this paragraph is inconsistent with the
276 daily data submitted under paragraph (b), the managing entity
277 shall consult with the public receiving facility to make
278 corrections as necessary to ensure accurate data.

279 (d) A managing entity shall require a public receiving
280 facility within its provider network to submit data, on an
281 annual basis, to the managing entity which aggregates the data
282 submitted and reconciled under paragraph (c). The managing
283 entity shall reconcile the data in the annual submission to the
284 data received and reconciled by the managing entity under
285 paragraph (c) to check for consistency. If the annual aggregate
286 data submitted by a public receiving facility under this
287 paragraph is inconsistent with the data received and reconciled
288 under paragraph (c), the managing entity shall consult with the
289 public receiving facility to make corrections as necessary to
290 ensure accurate data.

291 (e) After ensuring accurate data under paragraphs (c) and
292 (d), the managing entity shall submit the data to the department
293 on a monthly and an annual basis. The department shall create a
294 statewide database for the data described under paragraph (b)
295 and submitted under this paragraph for the purpose of analyzing
296 the payments for and the use of crisis stabilization services
297 funded under the Baker Act on a statewide basis and on an
298 individual public receiving facility basis.

299 (f) The department shall adopt rules to administer this
300 subsection.



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301 (g) The department shall submit a report by January 31,
302 2016, and annually thereafter, to the Governor, the President of
303 the Senate, and the Speaker of the House of Representatives
304 which provides details on the implementation of this subsection,
305 including the status of the data collection process and a
306 detailed analysis of the data collected under this subsection.

307 (h) The implementation of this subsection is subject to
308 specific appropriations provided to the department under the
309 General Appropriations Act.

310 Section 5. Paragraph (e) is added to subsection (10) of
311 section 29.004, Florida Statutes, to read:

312 29.004 State courts system.—For purposes of implementing s.
313 14, Art. V of the State Constitution, the elements of the state
314 courts system to be provided from state revenues appropriated by
315 general law are as follows:

316 (10) Case management. Case management includes:

317 (e) Service referral, coordination, monitoring, and
318 tracking for treatment-based mental health court programs under
319 s. 394.47892.

320
321 Case management may not include costs associated with the
322 application of therapeutic jurisprudence principles by the
323 courts. Case management also may not include case intake and
324 records management conducted by the clerk of court.

325 Section 6. Subsection (6) of section 39.001, Florida
326 Statutes, is amended to read:

327 39.001 Purposes and intent; personnel standards and
328 screening.—

329 (6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—



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330 (a) The Legislature recognizes that early referral and
331 comprehensive treatment can help combat mental illnesses and
332 substance abuse disorders in families and that treatment is
333 cost-effective.

334 (b) The Legislature establishes the following goals for the
335 state related to mental illness and substance abuse treatment
336 services in the dependency process:

337 1. To ensure the safety of children.

338 2. To prevent and remediate the consequences of mental
339 illnesses and substance abuse disorders on families involved in
340 protective supervision or foster care and reduce the occurrences
341 of mental illnesses and substance abuse disorders, including
342 alcohol abuse or related disorders, for families who are at risk
343 of being involved in protective supervision or foster care.

344 3. To expedite permanency for children and reunify healthy,
345 intact families, when appropriate.

346 4. To support families in recovery.

347 (c) The Legislature finds that children in the care of the
348 state's dependency system need appropriate health care services,
349 that the impact of mental illnesses and substance abuse
350 disorders on health indicates the need for health care services
351 to include treatment for mental health and substance abuse
352 disorders ~~services~~ to children and parents where appropriate,
353 and that it is in the state's best interest that such children
354 be provided the services they need to enable them to become and
355 remain independent of state care. In order to provide these
356 services, the state's dependency system must have the ability to
357 identify and provide appropriate intervention and treatment for
358 children with personal or family-related mental illness and



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359 substance abuse problems.

360 (d) It is the intent of the Legislature to encourage the
361 use of the treatment-based mental health court program model
362 established by s. 394.47892 and drug court program model
363 established by s. 397.334 and authorize courts to assess
364 children and persons who have custody or are requesting custody
365 of children where good cause is shown to identify and address
366 mental illnesses and substance abuse disorders ~~problems~~ as the
367 court deems appropriate at every stage of the dependency
368 process. Participation in treatment, including a treatment-based
369 mental health court program or a treatment-based drug court
370 program, may be required by the court following adjudication.
371 Participation in assessment and treatment before ~~prior to~~
372 adjudication is ~~shall be~~ voluntary, except as provided in s.
373 39.407(16).

374 (e) It is therefore the purpose of the Legislature to
375 provide authority for the state to contract with mental health
376 service providers and community substance abuse treatment
377 providers for the development and operation of specialized
378 support and overlay services for the dependency system, which
379 will be fully implemented and used as resources permit.

380 (f) Participation in a treatment-based mental health court
381 program or a ~~the~~ treatment-based drug court program does not
382 divest any public or private agency of its responsibility for a
383 child or adult, but is intended to enable these agencies to
384 better meet their needs through shared responsibility and
385 resources.

386 Section 7. Subsection (10) of section 39.507, Florida
387 Statutes, is amended to read:



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388 39.507 Adjudicatory hearings; orders of adjudication.—
389 (10) After an adjudication of dependency, or a finding of
390 dependency where adjudication is withheld, the court may order a
391 person who has custody or is requesting custody of the child to
392 submit to a mental health or substance abuse disorder assessment
393 or evaluation. The assessment or evaluation must be administered
394 by a qualified professional, as defined in s. 397.311. The court
395 may also require such person to participate in and comply with
396 treatment and services identified as necessary, including, when
397 appropriate and available, participation in and compliance with
398 a treatment-based mental health court program established under
399 s. 394.47892 or a treatment-based drug court program established
400 under s. 397.334. In addition to supervision by the department,
401 the court, including the treatment-based mental health court
402 program or treatment-based drug court program, may oversee the
403 progress and compliance with treatment by a person who has
404 custody or is requesting custody of the child. The court may
405 impose appropriate available sanctions for noncompliance upon a
406 person who has custody or is requesting custody of the child or
407 make a finding of noncompliance for consideration in determining
408 whether an alternative placement of the child is in the child's
409 best interests. Any order entered under this subsection may be
410 made only upon good cause shown. This subsection does not
411 authorize placement of a child with a person seeking custody,
412 other than the parent or legal custodian, who requires mental
413 health or substance abuse disorder treatment.

414 Section 8. Paragraph (b) of subsection (1) of section
415 39.521, Florida Statutes, is amended to read:

416 39.521 Disposition hearings; powers of disposition.—



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417 (1) A disposition hearing shall be conducted by the court,
418 if the court finds that the facts alleged in the petition for
419 dependency were proven in the adjudicatory hearing, or if the
420 parents or legal custodians have consented to the finding of
421 dependency or admitted the allegations in the petition, have
422 failed to appear for the arraignment hearing after proper
423 notice, or have not been located despite a diligent search
424 having been conducted.

425 (b) When any child is adjudicated by a court to be
426 dependent, the court having jurisdiction of the child has the
427 power by order to:

428 1. Require the parent and, when appropriate, the legal
429 custodian and the child to participate in treatment and services
430 identified as necessary. The court may require the person who
431 has custody or who is requesting custody of the child to submit
432 to a mental health or substance abuse disorder assessment or
433 evaluation. The assessment or evaluation must be administered by
434 a qualified professional, as defined in s. 397.311. The court
435 may also require such person to participate in and comply with
436 treatment and services identified as necessary, including, when
437 appropriate and available, participation in and compliance with
438 a treatment-based mental health court program established under
439 s. 394.47892 or treatment-based drug court program established
440 under s. 397.334. In addition to supervision by the department,
441 the court, including the treatment-based mental health court
442 program or treatment-based drug court program, may oversee the
443 progress and compliance with treatment by a person who has
444 custody or is requesting custody of the child. The court may
445 impose appropriate available sanctions for noncompliance upon a



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446 person who has custody or is requesting custody of the child or
447 make a finding of noncompliance for consideration in determining
448 whether an alternative placement of the child is in the child's
449 best interests. Any order entered under this subparagraph may be
450 made only upon good cause shown. This subparagraph does not
451 authorize placement of a child with a person seeking custody of
452 the child, other than the child's parent or legal custodian, who
453 requires mental health or substance abuse disorder treatment.

454 2. Require, if the court deems necessary, the parties to
455 participate in dependency mediation.

456 3. Require placement of the child either under the
457 protective supervision of an authorized agent of the department
458 in the home of one or both of the child's parents or in the home
459 of a relative of the child or another adult approved by the
460 court, or in the custody of the department. Protective
461 supervision continues until the court terminates it or until the
462 child reaches the age of 18, whichever date is first. Protective
463 supervision shall be terminated by the court whenever the court
464 determines that permanency has been achieved for the child,
465 whether with a parent, another relative, or a legal custodian,
466 and that protective supervision is no longer needed. The
467 termination of supervision may be with or without retaining
468 jurisdiction, at the court's discretion, and shall in either
469 case be considered a permanency option for the child. The order
470 terminating supervision by the department shall set forth the
471 powers of the custodian of the child and shall include the
472 powers ordinarily granted to a guardian of the person of a minor
473 unless otherwise specified. Upon the court's termination of
474 supervision by the department, no further judicial reviews are



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475 required, so long as permanency has been established for the
476 child.

477 Section 9. Paragraph (a) of subsection (7) of section
478 948.08, Florida Statutes, is amended to read:

479 948.08 Pretrial intervention program.—

480 (7) (a) Notwithstanding any provision of this section, a
481 person who is charged with a felony, other than a felony listed
482 in s. 948.06(8)(c), and identified as a veteran, as defined in
483 s. 1.01, including a veteran who was discharged or released
484 under a general discharge, or servicemember, as defined in s.
485 250.01, who suffers from a military service-related mental
486 illness, traumatic brain injury, substance abuse disorder, or
487 psychological problem, is eligible for voluntary admission into
488 a pretrial veterans' treatment intervention program approved by
489 the chief judge of the circuit, upon motion of either party or
490 the court's own motion, except:

491 1. If a defendant was previously offered admission to a
492 pretrial veterans' treatment intervention program at any time
493 before trial and the defendant rejected that offer on the
494 record, the court may deny the defendant's admission to such a
495 program.

496 2. If a defendant previously entered a court-ordered
497 veterans' treatment program, the court may deny the defendant's
498 admission into the pretrial veterans' treatment program.

499 Section 10. Paragraph (a) of subsection (2) of section
500 948.16, Florida Statutes, is amended to read:

501 948.16 Misdemeanor pretrial substance abuse education and
502 treatment intervention program; misdemeanor pretrial veterans'
503 treatment intervention program.—



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504 (2) (a) A veteran, as defined in s. 1.01, including a
505 veteran who was discharged or released under a general
506 discharge, or servicemember, as defined in s. 250.01, who
507 suffers from a military service-related mental illness,
508 traumatic brain injury, substance abuse disorder, or
509 psychological problem, and who is charged with a misdemeanor is
510 eligible for voluntary admission into a misdemeanor pretrial
511 veterans' treatment intervention program approved by the chief
512 judge of the circuit, for a period based on the program's
513 requirements and the treatment plan for the offender, upon
514 motion of either party or the court's own motion. However, the
515 court may deny the defendant admission into a misdemeanor
516 pretrial veterans' treatment intervention program if the
517 defendant has previously entered a court-ordered veterans'
518 treatment program.

519 Section 11. Section 948.21, Florida Statutes, is amended to
520 read:

521 948.21 Condition of probation or community control;
522 military servicemembers and veterans.-

523 (1) Effective for a probationer or community controllee
524 whose crime was committed on or after July 1, 2012, and who is a
525 veteran, as defined in s. 1.01, or servicemember, as defined in
526 s. 250.01, who suffers from a military service-related mental
527 illness, traumatic brain injury, substance abuse disorder, or
528 psychological problem, the court may, in addition to any other
529 conditions imposed, impose a condition requiring the probationer
530 or community controllee to participate in a treatment program
531 capable of treating the probationer or community controllee's
532 mental illness, traumatic brain injury, substance abuse



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533 disorder, or psychological problem.

534 (2) Effective for a probationer or community controllee
535 whose crime was committed on or after July 1, 2015, and who is a
536 veteran, as defined in s. 1.01, including a veteran who was
537 discharged or released under a general discharge, or a
538 servicemember, as defined in s. 250.01, who suffers from a
539 military service-related mental illness, traumatic brain injury,
540 substance abuse disorder, or psychological problem, the court
541 may impose, in addition to any other conditions imposed, a
542 condition requiring the probationer or community controllee to
543 participate in a treatment program established to treat the
544 probationer or community controllee's mental illness, traumatic
545 brain injury, substance abuse disorder, or psychological
546 problem.

547 (3) The court shall give preference to treatment programs
548 for which the probationer or community controllee is eligible
549 through the United States Department of Veterans Affairs or the
550 Florida Department of Veterans' Affairs. The Department of
551 Corrections is not required to spend state funds to implement
552 this section.

553 Section 12. The Agency for Health Care Administration shall
554 apply to the United States Department of Health and Human
555 Services for a planning grant and any other subsequent grant
556 programs that become available through s. 203 of the federal
557 Protecting Access to Medicare Act of 2014, Pub. L. No. 113-93,
558 and that create opportunity to improve access to community
559 mental health services while improving Medicaid reimbursement
560 rates for such services. The agency shall collaborate with the
561 Department of Children and Families in preparing the state's



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562 application for submission.

563 Section 13. This act shall take effect July 1, 2015.

564

565 ===== T I T L E A M E N D M E N T =====

566 And the title is amended as follows:

567 Delete everything before the enacting clause

568 and insert:

569 A bill to be entitled

570 An act relating to behavioral health services;

571 amending s. 394.47891, F.S.; expanding eligibility

572 criteria for military veterans and servicemembers

573 court programs; creating s. 394.47892, F.S.;

574 authorizing counties to fund treatment-based mental

575 health court programs; providing legislative intent;

576 providing that pretrial program participation is

577 voluntary; specifying criteria that a court must

578 consider before sentencing a person to a

579 postadjudicatory treatment-based mental health court

580 program; requiring a judge presiding over a

581 postadjudicatory treatment-based mental health court

582 program to hear a violation of probation or community

583 control under certain circumstances; providing that

584 treatment-based mental health court programs may

585 include specified programs; requiring a judicial

586 circuit with a treatment-based mental health court

587 program to establish a coordinator position, subject

588 to annual appropriation by the Legislature; providing

589 county funding requirements for treatment-based mental

590 health court programs; authorizing the chief judge of



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591 a judicial circuit to appoint an advisory committee
592 for the treatment-based mental health court program;
593 specifying membership of the committee; amending s.
594 394.656, F.S.; revising the composition and duties of
595 the Criminal Justice, Mental Health, and Substance
596 Abuse Statewide Grant Review Committee within the
597 Department of Children and Families; requiring the
598 department to create a grant review and selection
599 committee; prescribing duties of the committee;
600 authorizing a designated not-for-profit community
601 provider to apply for certain grants; amending s.
602 394.9082, F.S.; requiring the managing entity to
603 support network providers in offering comprehensive
604 and coordinated care to certain populations;
605 specifying what constitutes priority populations;
606 defining the term "public receiving facility";
607 requiring the department to establish specified
608 standards and protocols with respect to the
609 administration of the crisis stabilization services
610 utilization database; directing managing entities to
611 require public receiving facilities to submit
612 utilization data on a periodic basis; providing
613 requirements for the data; requiring managing entities
614 to periodically submit aggregate data to the
615 department; requiring the department to adopt rules;
616 requiring the department to annually submit a report
617 to the Governor and the Legislature; prescribing
618 report requirements; specifying that implementation of
619 the database is contingent upon an appropriation;



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620 amending ss. 29.004, 39.001, 39.507, and 39.521, F.S.;

621 conforming provisions to changes made by the act;

622 amending s. 948.08, F.S.; expanding the definition of

623 the term "veteran" for purposes of eligibility

624 requirements for a pretrial intervention program;

625 amending s. 948.16, F.S.; expanding the definition of

626 the term "veteran" for purposes of eligibility

627 requirements for a misdemeanor pretrial veterans'

628 treatment intervention program; amending s. 948.21,

629 F.S.; authorizing a court to impose certain conditions

630 on certain probationers or community controllees;

631 requiring the Agency for Health Care Administration to

632 submit a planning grant application to the United

633 States Department of Health and Human Services;

634 providing an effective date.

635

636 WHEREAS, Florida's residents with mental illnesses and

637 substance abuse disorders are best able to recover and become

638 productive citizens when served in their own communities and

639 surrounded by family and natural support systems, and

640 WHEREAS, untreated mental illnesses and substance abuse

641 disorders place a burden on the health care and public safety

642 system, and

643 WHEREAS, research has demonstrated that the delivery of

644 behavioral health services to treat mental illnesses and

645 substance abuse disorders are cost-effective and efficient, and

646 WHEREAS, the Legislature intends to ensure greater access

647 to behavioral health services by promoting the high quality,

648 adequacy, and availability of these essential services, NOW,



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649 | THEREFORE,

By Senator Bradley

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1 A bill to be entitled
 2 An act relating to behavioral health services;
 3 creating s. 394.47892, F.S.; authorizing counties to
 4 fund treatment-based mental health court programs;
 5 providing legislative intent; providing that pretrial
 6 program participation is voluntary; specifying
 7 criteria that a court must consider before sentencing
 8 a person to a postadjudicatory treatment-based mental
 9 health court program; requiring a judge presiding over
 10 a postadjudicatory treatment-based mental health court
 11 program to hear a violation of probation or community
 12 control under certain circumstances; providing that
 13 treatment-based mental health court programs may
 14 include specified programs; requiring a judicial
 15 circuit with a treatment-based mental health court
 16 program to establish a coordinator position, subject
 17 to annual appropriation by the Legislature; providing
 18 county funding requirements for treatment-based mental
 19 health court programs; authorizing the chief judge of
 20 a judicial circuit to appoint an advisory committee
 21 for the treatment-based mental health court program;
 22 specifying membership of the committee; amending s.
 23 394.656, F.S.; revising the composition and duties of
 24 the Criminal Justice, Mental Health, and Substance
 25 Abuse Statewide Grant Review Committee within the
 26 Department of Children and Families; requiring the
 27 department to create a grant review and selection
 28 committee; prescribing duties of the committee;
 29 authorizing a designated not-for-profit community

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30 provider to apply for certain grants; amending s.
 31 394.9082, F.S.; requiring managing entities to
 32 establish a process for enrolling priority substance
 33 abuse and mental health populations into substance
 34 abuse and mental health services; requiring the
 35 department to establish enrollment criteria; defining
 36 the term "public receiving facility"; requiring the
 37 department to establish specified standards and
 38 protocols with respect to the administration of the
 39 crisis stabilization services utilization database;
 40 directing managing entities to require public
 41 receiving facilities to submit utilization data on a
 42 periodic basis; providing requirements for the data;
 43 requiring managing entities to periodically submit
 44 aggregate data to the department; requiring the
 45 department to adopt rules; requiring the department to
 46 annually submit a report to the Governor and the
 47 Legislature; prescribing report requirements;
 48 specifying that implementation of the database is
 49 contingent upon an appropriation; amending s. 409.906,
 50 F.S.; requiring the Agency for Health Care
 51 Administration to submit a federal waiver or Medicaid
 52 state plan amendment for the provision of health
 53 homes; specifying conditions for the health home
 54 program; amending ss. 29.004, 39.001, 39.507, and
 55 39.521, F.S.; conforming provisions to changes made by
 56 the act; requiring the agency to submit a planning
 57 grant application to the United States Department of
 58 Health and Human Services; providing an effective

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59 date.

60
61 WHEREAS, Florida's residents with mental illnesses and
62 substance abuse disorders are best able to recover and become
63 productive citizens when served in their own communities and
64 surrounded by family and natural support systems, and

65 WHEREAS, untreated mental illnesses and substance abuse
66 disorders place a burden on the health care and public safety
67 system, and

68 WHEREAS, research has demonstrated that the delivery of
69 behavioral health services to treat mental illnesses and
70 substance abuse disorders are cost-effective and efficient, and

71 WHEREAS, the Legislature intends to ensure greater access
72 to behavioral health services by promoting the high quality,
73 adequacy, and availability of these essential services, NOW,
74 THEREFORE,

75
76 Be It Enacted by the Legislature of the State of Florida:

77
78 Section 1. Section 394.47892, Florida Statutes, is created
79 to read:

80 394.47892 Treatment-based mental health court programs.-

81 (1) Each county may fund a treatment-based mental health
82 court program under which persons in the justice system assessed
83 with a mental illness will be processed in such a manner as to
84 appropriately address the severity of the identified mental
85 health problem through treatment services tailored to the
86 individual needs of the participant. The Legislature intends to
87 encourage the Department of Corrections, the Department of

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88 Children and Families, the Department of Juvenile Justice, the
89 Department of Health, the Department of Law Enforcement, the
90 Department of Education, and such agencies, local governments,
91 law enforcement agencies, other interested public or private
92 sources, and individuals to support the creation and
93 establishment of these problem-solving court programs.
94 Participation in the treatment-based mental health court
95 programs does not divest any public or private agency of its
96 responsibility for a child or adult, but enables these agencies
97 to better meet their needs through shared responsibility and
98 resources.

99 (2) Entry into any pretrial treatment-based mental health
100 court program is voluntary.

101 (3) (a) Entry into any postadjudicatory treatment-based
102 mental health court program as a condition of probation or
103 community control pursuant to s. 948.01 or s. 948.06 must be
104 based upon the sentencing court's assessment of the defendant's
105 criminal history, mental health screening outcome, amenability
106 to the services of the program, the recommendation of the state
107 attorney and the victim, if any, and the defendant's agreement
108 to enter the program.

109 (b) An offender who is sentenced to a postadjudicatory
110 treatment-based mental health court program and who, while a
111 mental health court program participant, is the subject of a
112 violation of probation or community control under s. 948.06
113 shall have the violation of probation or community control heard
114 by the judge presiding over the postadjudicatory treatment-based
115 mental health court program. The judge shall dispose of any such
116 violation, after a hearing on or admission of the violation, as

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117 he or she deems appropriate if the resulting sentence or
 118 conditions are lawful.

119 (4) Treatment-based mental health court programs may
 120 include pretrial intervention programs as provided in s. 948.08,
 121 treatment-based mental health court programs authorized in
 122 chapter 39, postadjudicatory programs as provided in ss. 948.01
 123 and 948.06, and review of the status of compliance or
 124 noncompliance of sentenced offenders through a treatment-based
 125 mental health court program.

126 (5) Contingent upon an annual appropriation by the
 127 Legislature, each judicial circuit with a treatment-based mental
 128 health court program shall establish, at a minimum, one
 129 coordinator position for the treatment-based mental health court
 130 program within the state courts system to coordinate the
 131 responsibilities of the participating agencies and service
 132 providers. Each coordinator shall provide direct support to the
 133 treatment-based mental health court program by providing
 134 coordination between the multidisciplinary team and the
 135 judiciary, providing case management, monitoring compliance of
 136 the participants in the treatment-based mental health court
 137 program with court requirements, and providing program
 138 evaluation and accountability.

139 (6) If a county chooses to fund a treatment-based mental
 140 health court program, the county must secure funding from
 141 sources other than the state for those costs not otherwise
 142 assumed by the state pursuant to s. 29.004. However, this does
 143 not preclude a county from using treatment and other service
 144 funding provided through state executive branch agencies.
 145 Counties may provide, by interlocal agreement, for the

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146 collective funding of these programs.

147 (7) The chief judge of each judicial circuit may appoint an
 148 advisory committee for the treatment-based mental health court
 149 program. The committee shall be composed of the chief judge, or
 150 his or her designee, who shall serve as chair; the judge of the
 151 treatment-based mental health court program, if not otherwise
 152 designated by the chief judge as his or her designee; the state
 153 attorney, or his or her designee; the public defender, or his or
 154 her designee; the treatment-based mental health court program
 155 coordinators; community representatives; treatment
 156 representatives; and any other persons the chair finds are
 157 appropriate.

158 Section 2. Section 394.656, Florida Statutes, is amended to
 159 read:

160 394.656 Criminal Justice, Mental Health, and Substance
 161 Abuse Reinvestment Grant Program.—

162 (1) There is created within the Department of Children and
 163 Families the Criminal Justice, Mental Health, and Substance
 164 Abuse Reinvestment Grant Program. The purpose of the program is
 165 to provide funding to counties with which they can plan,
 166 implement, or expand initiatives that increase public safety,
 167 avert increased spending on criminal justice, and improve the
 168 accessibility and effectiveness of treatment services for adults
 169 and juveniles who have a mental illness, substance abuse
 170 disorder, or co-occurring mental health and substance abuse
 171 disorders and who are in, or at risk of entering, the criminal
 172 or juvenile justice systems.

173 (2) The department shall establish a Criminal Justice,
 174 Mental Health, and Substance Abuse Statewide Grant Review

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175 Committee. The committee shall include:

176 (a) One representative of the Department of Children and
177 Families;

178 (b) One representative of the Department of Corrections;

179 (c) One representative of the Department of Juvenile
180 Justice;

181 (d) One representative of the Department of Elderly
182 Affairs; ~~and~~

183 (e) One representative of the Office of the State Courts
184 Administrator;

185 (f) One representative of the Department of Veterans'
186 Affairs;

187 (g) One representative of the Florida Sheriffs Association;

188 (h) One representative of the Florida Police Chiefs
189 Association;

190 (i) One representative of the Florida Association of
191 Counties;

192 (j) One representative of the Florida Alcohol and Drug
193 Abuse Association; and

194 (k) One representative from the Florida Council for
195 Community Mental Health.

196
197 The committee shall serve as the advisory body to review policy
198 and funding issues that help reduce the impact of persons with
199 mental illness and substance abuse disorders on communities and
200 the court system. The committee shall advise the department in
201 selecting priorities for applying and reviewing grants and
202 investing awarded grant moneys.

203 (3) In addition to the committee established pursuant to

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204 subsection (2), the department shall create a grant review and
205 selection committee. To the extent possible, the members of the
206 grant review and selection committee shall have expertise in the
207 content areas relating to grant applications, including, but not
208 limited to, substance abuse and mental health disorders,
209 community corrections, and law enforcement. In addition, members
210 shall have experience in ~~grant writing~~, grant reviewing, and
211 grant application scoring.

212 (4) (a) ~~(3) (a)~~ A county, or a not-for-profit community
213 provider designated by a local county planning council or
214 committee described in s. 394.657, may apply for a ~~1-year~~
215 ~~planning grant~~ or a 3-year implementation or expansion grant.
216 The purpose of the grants is to demonstrate that investment in
217 treatment efforts related to mental illness, substance abuse
218 disorders, or co-occurring mental health and substance abuse
219 disorders results in a reduced demand on the resources of the
220 judicial, corrections, juvenile detention, and health and social
221 services systems.

222 (b) To be eligible to receive a ~~1-year planning grant~~ or a
223 3-year implementation or expansion grant, a county applicant
224 must have a county planning council or committee that is in
225 compliance with the membership requirements set forth in this
226 section.

227 (5) ~~(4)~~ The Criminal Justice, Mental Health, and Substance
228 Abuse Statewide Grant Review Committee shall notify the
229 Department of Children and Families in writing of the names of
230 the applicants who have been selected by the committee to
231 receive a grant. Contingent upon the availability of funds and
232 upon notification by the ~~review~~ committee of those applicants

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233 approved to receive ~~planning, implementation,~~ or expansion
 234 grants, the Department of Children and Families may transfer
 235 funds appropriated for the grant program to an approved
 236 applicant ~~any county awarded a grant.~~

237 Section 3. Present paragraphs (b) through (g) of subsection
 238 (7) of section 394.9082, Florida Statutes, are redesignated as
 239 paragraphs (c) through (h), respectively, a new paragraph (b) is
 240 added to that subsection, present paragraphs (c) and (d) of that
 241 subsection are amended, present subsections (10) and (11) of
 242 that section are redesignated as subsections (11) and (12),
 243 respectively, and a new subsection (10) is added to that
 244 section, to read:

245 394.9082 Behavioral health managing entities.—

246 (7) MANAGING ENTITY REQUIREMENTS.—The department may adopt
 247 rules and standards and a process for the qualification and
 248 operation of managing entities which are based, in part, on the
 249 following criteria:

250 (b) A managing entity shall establish a process for the
 251 enrollment of the state's priority substance abuse and mental
 252 health populations into substance abuse and mental health
 253 services. The department shall establish enrollment criteria to
 254 be implemented by managing entities and their contracted service
 255 providers. A client's enrollment establishes the client's
 256 eligibility to receive services and the department's
 257 participation in the cost of such services. A person seeking
 258 services may not be denied services pending his or her
 259 enrollment.

260 (d) ~~(e)~~ A managing entity must submit a network management
 261 plan and budget in a form and manner determined by the

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262 department. The plan must detail the means for implementing the
 263 duties to be contracted to the managing entity and the
 264 efficiencies to be anticipated by the department as a result of
 265 executing the contract. The department may require modifications
 266 to the plan and must approve the plan before contracting with a
 267 managing entity. The department may contract with a managing
 268 entity that demonstrates readiness to assume core functions, and
 269 may continue to add functions and responsibilities to the
 270 managing entity's contract over time as additional competencies
 271 are developed as identified in paragraph (h) ~~(g)~~.
 272 Notwithstanding other provisions of this section, the department
 273 may continue and expand managing entity contracts if the
 274 department determines that the managing entity meets the
 275 requirements specified in this section.

276 (e) ~~(d)~~ Notwithstanding paragraphs (c) ~~(b)~~ and (d) ~~(e)~~, a
 277 managing entity that is currently a fully integrated system
 278 providing mental health and substance abuse services, Medicaid,
 279 and child welfare services is permitted to continue operating
 280 under its current governance structure as long as the managing
 281 entity can demonstrate to the department that consumers, other
 282 stakeholders, and network providers are included in the planning
 283 process.

284 (10) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—
 285 The department shall develop, implement, and maintain standards
 286 under which a managing entity shall collect utilization data
 287 from all public receiving facilities situated within its
 288 geographic service area. As used in this subsection, the term
 289 "public receiving facility" means an entity that meets the
 290 licensure requirements of and is designated by the department to

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291 operate as a public receiving facility under s. 394.875 and that
 292 is operating as a licensed crisis stabilization unit.

293 (a) The department shall develop standards and protocols
 294 for managing entities and public receiving facilities to use in
 295 the collection, storage, transmittal, and analysis of data. The
 296 standards and protocols must allow for compatibility of data and
 297 data transmittal between public receiving facilities, managing
 298 entities, and the department for the implementation and
 299 requirements of this subsection. The department shall require
 300 managing entities contracted under this section to comply with
 301 this subsection by August 1, 2015.

302 (b) A managing entity shall require a public receiving
 303 facility within its provider network to submit data to the
 304 managing entity, in real time or at least daily, for:

305 1. All admissions and discharges of clients receiving
 306 public receiving facility services who qualify as indigent, as
 307 defined in s. 394.4787; and

308 2. Current active census of total licensed beds, the number
 309 of beds purchased by the department, the number of clients
 310 qualifying as indigent occupying those beds, and the total
 311 number of unoccupied licensed beds regardless of funding.

312 (c) A managing entity shall require a public receiving
 313 facility within its provider network to submit data, on a
 314 monthly basis, to the managing entity which aggregates the daily
 315 data submitted under paragraph (b). The managing entity shall
 316 reconcile the data in the monthly submission to the data
 317 received by the managing entity under paragraph (b) to check for
 318 consistency. If the monthly aggregate data submitted by a public
 319 receiving facility under this paragraph is inconsistent with the

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320 daily data submitted under paragraph (b), the managing entity
 321 shall consult with the public receiving facility to make
 322 corrections as necessary to ensure accurate data.

323 (d) A managing entity shall require a public receiving
 324 facility within its provider network to submit data, on an
 325 annual basis, to the managing entity which aggregates the data
 326 submitted and reconciled under paragraph (c). The managing
 327 entity shall reconcile the data in the annual submission to the
 328 data received and reconciled by the managing entity under
 329 paragraph (c) to check for consistency. If the annual aggregate
 330 data submitted by a public receiving facility under this
 331 paragraph is inconsistent with the data received and reconciled
 332 under paragraph (c), the managing entity shall consult with the
 333 public receiving facility to make corrections as necessary to
 334 ensure accurate data.

335 (e) After ensuring accurate data under paragraphs (c) and
 336 (d), the managing entity shall submit the data to the department
 337 on a monthly and an annual basis. The department shall create a
 338 statewide database for the data described under paragraph (b)
 339 and submitted under this paragraph for the purpose of analyzing
 340 the payments for and the use of crisis stabilization services
 341 funded under the Baker Act on a statewide basis and on an
 342 individual public receiving facility basis.

343 (f) The department shall adopt rules to administer this
 344 subsection.

345 (g) The department shall submit a report by January 31,
 346 2016, and annually thereafter, to the Governor, the President of
 347 the Senate, and the Speaker of the House of Representatives
 348 which provides details on the implementation of this subsection,

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349 including the status of the data collection process and a
 350 detailed analysis of the data collected under this subsection.

351 (h) The implementation of this subsection is subject to
 352 specific appropriations provided to the department under the
 353 General Appropriations Act.

354 Section 4. Paragraph (c) is added to subsection (8) of
 355 section 409.906, Florida Statutes, to read:

356 409.906 Optional Medicaid services.—Subject to specific
 357 appropriations, the agency may make payments for services which
 358 are optional to the state under Title XIX of the Social Security
 359 Act and are furnished by Medicaid providers to recipients who
 360 are determined to be eligible on the dates on which the services
 361 were provided. Any optional service that is provided shall be
 362 provided only when medically necessary and in accordance with
 363 state and federal law. Optional services rendered by providers
 364 in mobile units to Medicaid recipients may be restricted or
 365 prohibited by the agency. Nothing in this section shall be
 366 construed to prevent or limit the agency from adjusting fees,
 367 reimbursement rates, lengths of stay, number of visits, or
 368 number of services, or making any other adjustments necessary to
 369 comply with the availability of moneys and any limitations or
 370 directions provided for in the General Appropriations Act or
 371 chapter 216. If necessary to safeguard the state's systems of
 372 providing services to elderly and disabled persons and subject
 373 to the notice and review provisions of s. 216.177, the Governor
 374 may direct the Agency for Health Care Administration to amend
 375 the Medicaid state plan to delete the optional Medicaid service
 376 known as "Intermediate Care Facilities for the Developmentally
 377 Disabled." Optional services may include:

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378 (8) COMMUNITY MENTAL HEALTH SERVICES.—

379 (c) The agency shall submit a federal waiver or a Medicaid
 380 state plan amendment for the provision of health homes for
 381 individuals with chronic conditions, including those with severe
 382 mental illnesses or substance use disorders, as authorized under
 383 42 U.S.C. s. 1396w-4. The waiver or plan amendment shall allow
 384 for a health home services provider to be reimbursed for the
 385 delivery of primary care services and other core services. The
 386 agency shall direct managed care plans to incorporate providers
 387 with health homes into their network and to reimburse the health
 388 home services providers for any services delivered.

389 1. To be eligible for inclusion in a health home program, a
 390 Medicaid beneficiary must have at least two chronic health
 391 conditions, must have one chronic health condition and is at
 392 risk of having a second chronic health condition, or must have
 393 one serious and persistent mental health condition.

394 2. A health home must meet standards developed by the Joint
 395 Commission or the Commission on Accreditation of Rehabilitation
 396 Facilities and be a behavioral health organization that provides
 397 screening, evaluation, crisis intervention, medication
 398 management, psychosocial treatment and rehabilitation, care
 399 management, and community integration and support services
 400 designed to assist individuals in addressing their behavioral
 401 health care needs. In addition, a health home must:

402 a. Embody a recovery-focused model of care which respects
 403 and promotes independence and recovery.

404 b. Promote healthy lifestyles and provide prevention and
 405 education services that focus on wellness and self-care.

406 c. Ensure access to and coordinate care across prevention,

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407 primary care, and specialty health care services.
 408 d. Monitor critical health indicators.
 409 e. Support individuals in the self-management of chronic
 410 health conditions.
 411 f. Coordinate and monitor emergency room visits and
 412 hospitalizations, including participation in transition and
 413 discharge planning and followup.
 414 Section 5. Paragraph (e) is added to subsection (10) of
 415 section 29.004, Florida Statutes, to read:
 416 29.004 State courts system.—For purposes of implementing s.
 417 14, Art. V of the State Constitution, the elements of the state
 418 courts system to be provided from state revenues appropriated by
 419 general law are as follows:
 420 (10) Case management. Case management includes:
 421 (e) Service referral, coordination, monitoring, and
 422 tracking for treatment-based mental health court programs under
 423 s. 394.47892.
 424
 425 Case management may not include costs associated with the
 426 application of therapeutic jurisprudence principles by the
 427 courts. Case management also may not include case intake and
 428 records management conducted by the clerk of court.
 429 Section 6. Subsection (6) of section 39.001, Florida
 430 Statutes, is amended to read:
 431 39.001 Purposes and intent; personnel standards and
 432 screening.—
 433 (6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—
 434 (a) The Legislature recognizes that early referral and
 435 comprehensive treatment can help combat mental illnesses and

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436 substance abuse disorders in families and that treatment is
 437 cost-effective.
 438 (b) The Legislature establishes the following goals for the
 439 state related to mental illness and substance abuse treatment
 440 services in the dependency process:
 441 1. To ensure the safety of children.
 442 2. To prevent and remediate the consequences of mental
 443 illnesses and substance abuse disorders on families involved in
 444 protective supervision or foster care and reduce the occurrences
 445 of mental illnesses and substance abuse disorders, including
 446 alcohol abuse or related disorders, for families who are at risk
 447 of being involved in protective supervision or foster care.
 448 3. To expedite permanency for children and reunify healthy,
 449 intact families, when appropriate.
 450 4. To support families in recovery.
 451 (c) The Legislature finds that children in the care of the
 452 state's dependency system need appropriate health care services,
 453 that the impact of mental illnesses and substance abuse
 454 disorders on health indicates the need for health care services
 455 to include treatment for mental health and substance abuse
 456 disorders ~~services~~ to children and parents where appropriate,
 457 and that it is in the state's best interest that such children
 458 be provided the services they need to enable them to become and
 459 remain independent of state care. In order to provide these
 460 services, the state's dependency system must have the ability to
 461 identify and provide appropriate intervention and treatment for
 462 children with personal or family-related mental illness and
 463 substance abuse problems.
 464 (d) It is the intent of the Legislature to encourage the

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465 use of the treatment-based mental health court program model
 466 established by s. 394.47892 and drug court program model
 467 established by s. 397.334 and authorize courts to assess
 468 children and persons who have custody or are requesting custody
 469 of children where good cause is shown to identify and address
 470 mental illnesses and substance abuse ~~disorders problems~~ as the
 471 court deems appropriate at every stage of the dependency
 472 process. Participation in treatment, including a treatment-based
 473 mental health court program or a treatment-based drug court
 474 program, may be required by the court following adjudication.
 475 Participation in assessment and treatment before ~~prior to~~
 476 adjudication is ~~shall be~~ voluntary, except as provided in s.
 477 39.407(16).

478 (e) It is therefore the purpose of the Legislature to
 479 provide authority for the state to contract with mental health
 480 service providers and community substance abuse treatment
 481 providers for the development and operation of specialized
 482 support and overlay services for the dependency system, which
 483 will be fully implemented and used as resources permit.

484 (f) Participation in a treatment-based mental health court
 485 program or a ~~the~~ treatment-based drug court program does not
 486 divest any public or private agency of its responsibility for a
 487 child or adult, but is intended to enable these agencies to
 488 better meet their needs through shared responsibility and
 489 resources.

490 Section 7. Subsection (10) of section 39.507, Florida
 491 Statutes, is amended to read:

492 39.507 Adjudicatory hearings; orders of adjudication.—

493 (10) After an adjudication of dependency, or a finding of

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494 dependency where adjudication is withheld, the court may order a
 495 person who has custody or is requesting custody of the child to
 496 submit to a mental health or substance abuse disorder assessment
 497 or evaluation. The assessment or evaluation must be administered
 498 by a qualified professional, as defined in s. 397.311. The court
 499 may also require such person to participate in and comply with
 500 treatment and services identified as necessary, including, when
 501 appropriate and available, participation in and compliance with
 502 a treatment-based mental health court program established under
 503 s. 394.47892 or a treatment-based drug court program established
 504 under s. 397.334. In addition to supervision by the department,
 505 the court, including the treatment-based mental health court
 506 program or treatment-based drug court program, may oversee the
 507 progress and compliance with treatment by a person who has
 508 custody or is requesting custody of the child. The court may
 509 impose appropriate available sanctions for noncompliance upon a
 510 person who has custody or is requesting custody of the child or
 511 make a finding of noncompliance for consideration in determining
 512 whether an alternative placement of the child is in the child's
 513 best interests. Any order entered under this subsection may be
 514 made only upon good cause shown. This subsection does not
 515 authorize placement of a child with a person seeking custody,
 516 other than the parent or legal custodian, who requires mental
 517 health or substance abuse disorder treatment.

518 Section 8. Paragraph (b) of subsection (1) of section
 519 39.521, Florida Statutes, is amended to read:

520 39.521 Disposition hearings; powers of disposition.—

521 (1) A disposition hearing shall be conducted by the court,
 522 if the court finds that the facts alleged in the petition for

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 523 dependency were proven in the adjudicatory hearing, or if the
 524 parents or legal custodians have consented to the finding of
 525 dependency or admitted the allegations in the petition, have
 526 failed to appear for the arraignment hearing after proper
 527 notice, or have not been located despite a diligent search
 528 having been conducted.

(b) When any child is adjudicated by a court to be
 530 dependent, the court having jurisdiction of the child has the
 531 power by order to:

1. Require the parent and, when appropriate, the legal
 533 custodian and the child to participate in treatment and services
 534 identified as necessary. The court may require the person who
 535 has custody or who is requesting custody of the child to submit
 536 to a mental health or substance abuse disorder assessment or
 537 evaluation. The assessment or evaluation must be administered by
 538 a qualified professional, as defined in s. 397.311. The court
 539 may also require such person to participate in and comply with
 540 treatment and services identified as necessary, including, when
 541 appropriate and available, participation in and compliance with
 542 a treatment-based mental health court program established under
 543 s. 394.47892 or treatment-based drug court program established
 544 under s. 397.334. In addition to supervision by the department,
 545 the court, including the treatment-based mental health court
 546 program or treatment-based drug court program, may oversee the
 547 progress and compliance with treatment by a person who has
 548 custody or is requesting custody of the child. The court may
 549 impose appropriate available sanctions for noncompliance upon a
 550 person who has custody or is requesting custody of the child or
 551 make a finding of noncompliance for consideration in determining

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 552 whether an alternative placement of the child is in the child's
 553 best interests. Any order entered under this subparagraph may be
 554 made only upon good cause shown. This subparagraph does not
 555 authorize placement of a child with a person seeking custody of
 556 the child, other than the child's parent or legal custodian, who
 557 requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to
 559 participate in dependency mediation.

3. Require placement of the child either under the
 561 protective supervision of an authorized agent of the department
 562 in the home of one or both of the child's parents or in the home
 563 of a relative of the child or another adult approved by the
 564 court, or in the custody of the department. Protective
 565 supervision continues until the court terminates it or until the
 566 child reaches the age of 18, whichever date is first. Protective
 567 supervision shall be terminated by the court whenever the court
 568 determines that permanency has been achieved for the child,
 569 whether with a parent, another relative, or a legal custodian,
 570 and that protective supervision is no longer needed. The
 571 termination of supervision may be with or without retaining
 572 jurisdiction, at the court's discretion, and shall in either
 573 case be considered a permanency option for the child. The order
 574 terminating supervision by the department shall set forth the
 575 powers of the custodian of the child and shall include the
 576 powers ordinarily granted to a guardian of the person of a minor
 577 unless otherwise specified. Upon the court's termination of
 578 supervision by the department, no further judicial reviews are
 579 required, so long as permanency has been established for the
 580 child.

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581 Section 9. The Agency for Health Care Administration shall
582 apply to the United States Department of Health and Human
583 Services for a planning grant and any other subsequent grant
584 programs that become available through s. 203 of the federal
585 Protecting Access to Medicare Act of 2014, Pub. L. No. 113-93,
586 and that create opportunity to improve access to community
587 mental health services while improving Medicaid reimbursement
588 rates for such services. The agency shall collaborate with the
589 Department of Children and Families in preparing the state's
590 application for submission.

591 Section 10. This act shall take effect July 1, 2015.

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 1500

INTRODUCER: Senator Latvala

SUBJECT: Housing for the Homeless

DATE: March 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ATD</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1500 makes numerous changes to the law related to housing for individuals and families who are homeless. The bill amends the State Apartment Incentive Loan Program (SAIL), to remove the difference in the amount of funds that must be reserved between specified tenant groups. It requires the Council on Homelessness to develop a statewide Management Information System (MIS) and requires participation by any entities that are receiving state funding.

The bill also expresses legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to preventing homelessness for individuals and families who do not require the intense level of supports provided in the Permanent Supportive Housing model and requires Rapid ReHousing to be added to the components of a continuum of care plan.

The bill requires that 4 percent of the total amount to be distributed in each fiscal year from the Local Government Housing Trust Fund be distributed to the Department of Children and Families (DCF or department) and the Department of Economic Opportunity (DEO), with DCF receiving 95 percent and DEO receiving 5 percent of the amount distributed.

The bill also removes the criteria applicable to awards made through the State Housing Initiatives Partnership program (SHIP) with the exception that all units constructed, rehabilitated or otherwise receiving assistance from funds available from the local housing assistance trust fund must be occupied by persons with very low, low, or moderate incomes.

The bill requires that funds that are made available to the state from the National Housing Trust Fund be used to develop and build housing to reduce homelessness in Florida. The Florida Housing Finance Corporation (corporation) is required to develop a grant process to award funds to nonprofits to build housing for extremely low income individuals and families.

The bill is anticipated to have a \$300,000 fiscal impact on state government and has an effective date of July 1, 2015.

II. Present Situation:

Housing for the Individuals with Lower Incomes

In 1986¹ the Legislature found that:

- Decent, safe, and sanitary housing for individuals of very low income, low income, and moderate income is a critical need in the state;
- New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need;
- Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very-low-income persons, low-income persons, and moderate-income persons as a matter of public purpose; and
- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.²

As a result of these findings, the Legislature determined that legislation was urgently needed to alleviate crucial problems related to housing shortages for individuals with very low,³ low⁴ and moderate⁵ incomes. In 1986, part VI of ch. 120, F.S., was titled as the “Florida Affordable Care Act of 1986”⁶ and programs and funding mechanisms were created over the years to help remedy low income housing issues.

State Apartment Incentive Loan Program

The SAIL program was created by the Legislature in 1988⁷ for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.⁸

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year. This funding often serves to bridge the gap between the development’s primary financing and the total cost of the development and is available to individuals, public

¹ Chapter 86-192, Laws of Fla.

² Section 420.6015, F.S.

³ “Very-low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.

⁴ “Low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.

⁵ “Moderate-income persons” means one or more persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the household is located, whichever is greater.

⁶ Chapter 86-192, Laws of Fla. Part VI was subsequently renamed the “Affordable Housing Planning and Community Assistance Act.” Chapter 92-317, Laws of Fla.

⁷ Chapter 88-376, Laws of Florida.

⁸ Section 420.5087, F.S.

entities, not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very low income individuals and families.⁹

During the first 6 months of loan or loan guarantee availability, program funds are required to be reserved for use by sponsors who provide the required housing set-aside for specified tenant groups. Currently, the reservation of funds within each notice of fund availability to the tenant groups are as follows:

- For commercial fishing workers, farmworkers, families and elderly persons the reservation of funds may not be less than 10 percent of the funds available at that time;
- For persons who are homeless the reservation of funds may not be less than 5 percent of the funds available at that time; and
- For persons with special needs the reservation of funds may not be more than 10 percent of the funds available at that time.¹⁰

State Office on Homelessness

In 2001, the Florida Legislature created the State Office on Homelessness (office) within DCF to serve as a central point of contact within state government on homelessness. The office is responsible for coordinating resources and programs across all levels of government, and with private providers that serve the homeless. It also manages targeted state grants to support the implementation of local homeless service continuum of care plans.¹¹

Council on Homelessness

The inter-agency Council on Homelessness (council) was also created in 2001. The 17-member council is charged with developing recommendations on how to reduce homelessness statewide and advising the State Office on Homelessness.¹²

Local Coalitions for the Homeless

The DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.¹³ Groups and organizations provided the opportunity to participate in such coalitions include: organizations and agencies providing mental health and substance abuse services; county health departments and community health centers; organizations and agencies providing food, shelter, or other services targeted to the homeless; local law enforcement agencies; regional workforce boards; county and municipal governments; local public housing authorities; local school districts and local organizations and agencies serving specific subgroups of the homeless population such as veterans, victims of domestic violence, persons with HIV/AIDS, runaway youth, and local community-based care alliances.¹⁴

⁹ Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at: http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0173. (last visited Mar. 10, 2015).

¹⁰ Section 420.5087, F.S.

¹¹ Section 420.622(1), F.S.

¹² *Id.*

¹³ Section 420.623, F.S.

¹⁴ *Id.*

Continuum of Care

The local coalition serves as the lead agency for the local homeless assistance continuum of care (CoC).¹⁵ A local CoC is a framework for a comprehensive and seamless array of emergency, transitional, and permanent housing, and services to address the various needs of the homeless and those at risk of homelessness.¹⁶ The purpose of a CoC is to help communities or regions envision, plan, and implement comprehensive and long-term solutions.¹⁷

The department interacts with the state's 28 CoCs through the office, which serves as the state's central point of contact on homelessness. The office has designated local entities to serve as lead agencies for local planning efforts to create homeless assistance CoC systems. The office has made these designations in consultation with the local homeless coalitions and the Florida offices of the federal Department of Housing and Urban Development (HUD).

The CoC planning effort is an ongoing process that addresses all subpopulations of the homeless. The development of a local CoC plan is a prerequisite to applying for federal housing grants through HUD. The plan also makes the community eligible to compete for the state's Challenge Grant and Homeless Housing Assistance Grant.¹⁸

“Challenge Grants”

The office is authorized to accept and administer moneys appropriated to it to provide “Challenge Grants” annually to designated lead agencies of homeless assistance continuums of care.¹⁹ The office may award grants in an amount of up to \$500,000 per lead agency.²⁰ A lead agency may spend a maximum of 8 percent of its funding on administrative costs. To qualify for the grant, a lead agency must develop and implement a local homeless assistance continuum of care plan for its designated area.²¹

Homeless Housing Assistance Grants

The office is authorized to accept and administer moneys appropriated to it to provide Homeless Housing Assistance Grants annually to lead agencies of local homeless assistance continuum of care. The grants may not exceed \$750,000 per project and an applicant may spend a maximum of 5 percent of its funding on administrative costs. The grant funds must be used to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons. The funds available for the eligible grant activities may be appropriated, received from donations, gifts, or from any public or private source.²²

¹⁵ *Id.*

¹⁶ Section 420.624, F.S.

¹⁷ *Id.*

¹⁸ Florida Department of Children and Families, *Lead Agencies*, available at: <http://www.myflfamilies.com/service-programs/homelessness/lead-agencies>. (last visited Mar. 16, 2015).

¹⁹ “Section 420.621(1), F.S., defines “Continuum of Care” to mean the community components needed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness.”

²⁰ Section 420.622, F.S.

²¹ *Id.*

²² *Id.*

Rapid ReHousing

Rapid ReHousing is a model for providing housing for individuals and families who are homeless. The model places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, hopefully within 30 days of a client becoming homeless and entering a program. While originally focused primarily on people experiencing homelessness due to short-term financial crises, programs across the country have begun to assist individuals and families who are traditionally perceived as more difficult to serve. This includes people with limited or no income, survivors of domestic violence, and those with substance abuse issues. Although the duration of financial assistance may vary, many programs find that, on average, 4 to 6 months of financial assistance is sufficient to stably re-house a household.²³

Since federal funding for rapid re-housing first became available in 2008, a number of communities, including Palm Beach County, Florida, that prioritized rapid re-housing as a response to homelessness have seen decreases in the amount of time that households spend homeless, less recidivism, and improved permanent housing outcomes relative to other available interventions.²⁴

There are three core components of rapid re-housing: housing identification, rent and move-in assistance (financial), and rapid re-housing case management and services. While all three components are present and available in effective rapid re-housing programs, there are instances where the components are provided by different entities or agencies, or where a household does not utilize all three.²⁵ A key element of rapid re-housing is the “Housing First” philosophy, which offers housing without preconditions such as employment, income, lack of a criminal background, or sobriety. If issues such as these need to be addressed, the household can address them most effectively once they are in housing.²⁶

State Housing Initiatives Partnership Program

The State Housing Initiatives Partnership program (SHIP), was created in 1992²⁷ to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low and moderate income families and is administered by the Florida Housing Finance Corporation (corporation). Funding for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. Funds are allocated to local governments each month on a population-based formula. These funds are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust

²³ National Alliance to End Homelessness, *Rapid Re-Housing: A History and Core Components*, (2014), available at: <http://www.endhomelessness.org/library/entry/rapid-re-housing-a-history-and-core-components> (last visited Mar. 11, 2015).

²⁴ *Id.*

²⁵ *Id.*

²⁶ The Florida Legislature expressed the intent to encourage homeless continuums of care to adopt the Housing First approach to ending homelessness for individuals and families in 2009. See s. 420.6275, F.S.

²⁷ Chapter 92-317, Laws of Fla.

Fund. Funds are distributed quarterly to local governments participating in the program under an established formula.²⁸

Pursuant to s. 420.624, F.S., the DCF provides funding for local homeless assistance continuum of care, which is a framework for providing an array of emergency, transitional, and permanent housing and services to address the various needs of homeless persons and persons at risk of becoming homeless. There is no statutorily identified funding source for this program.²⁹

Pursuant to s. 420.606(3), F.S., the DEO provides training and technical assistance to staff of state and local government entities, community-based organizations, and persons forming such organizations for the purpose of developing new housing and rehabilitating existing housing that is affordable for very-low-income persons, low-income persons, and moderate-income persons. There is no statutorily identified funding source for this program.³⁰

National Housing Trust Fund

In July 2008, the Housing and Economic Recovery Act was signed into law,³¹ establishing a National Housing Trust Fund (NHTF or trust fund), among other housing-related provisions. Although the Housing Trust Fund has been established, a permanent funding stream has not been secured.³²

The goal of the trust fund is to provide ongoing, permanent, dedicated, and sufficient sources of revenue to build, rehabilitate, and preserve 1.5 million units of housing for the lowest-income families, including people experiencing homelessness, over the next 10 years. The NHTF particularly aims to increase and preserve the supply of rental housing that is affordable for extremely³³ and very low-income households, and increase homeownership opportunities for those households. To prevent funding for the NHTF from competing with existing U.S. Department of Housing and Urban Development programs, this revenue is expected to be generated separately from the current appropriations process.³⁴

III. Effect of Proposed Changes:

Section 1 amends s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program, to remove the difference in the amount of funds that must be reserved between specified tenant

²⁸ Section 420.9073, F.S.

²⁹ Department of Economic Opportunity, *House Bill 379 Analysis*, (January 22, 2015.)

³⁰ *Id.*

³¹ Public Law 110-289.

³² The National Alliance to End Homelessness. *National Housing Trust Fund*, available at: http://www.endhomelessness.org/pages/national_housing_trust_fund. (last visited Mar. 15, 2015).

³³ “Extremely-low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 30 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.

³⁴ The National Alliance to End Homelessness, *National Housing Trust Fund*, available at: http://www.endhomelessness.org/pages/national_housing_trust_fund. (last visited Mar. 15, 2015).

groups. The bill requires that the reservation of funds within each notice of fund availability must be at least 10 percent of the funds available at that time for all five tenant groups.

Section 2 amends s. 420.622, F.S., relating to the State Office on Homelessness and the Council on Homelessness, to:

- Require the office, in coordination with other entities, to produce an inventory of state homeless programs instead of the currently required program and financial plan.
- Require the council to develop a statewide Management Information System (MIS) and requiring participation by any entities that are receiving state funding. Currently, the council is only required to explore the potential of creating a statewide MIS.
- Remove the requirement that award levels for “Challenge Grants” be based upon the total population within the continuum of care catchment area and reflect the differing degrees of homelessness in the catchment planning areas.
- Require the implementation of a coordinated assessment or central intake system to screen or refer persons seeking assistance be done in conjunction with the MIS.
- Reduce the maximum amount of funding that a lead agency may spend on administrative costs from 8 percent to 5 percent.
- Require any funding distributed to the lead agencies be based on overall performance and their achievement of specified objectives.

Section 3 amends s. 420.624, F.S., relating to the local homeless assistance continuum of care, to require the State Office on Homelessness and the Council on Homelessness to include, in the plan that communities seeking to implement a local homeless assistance continuum of care are encouraged to develop and annually update, a methodology for assessing performance and outcome. The bill also requires Rapid ReHousing to be added to the components of a continuum of care plan.

Section 4 creates s. 420.6265, F.S., relating to Rapid ReHousing, to express legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to preventing homelessness for individuals and families who do not require the intense level of supports provided in the Permanent Supportive Housing model.³⁵

Section 5 amends s. 420.9073, F.S., relating to local housing distributions to provide that 4 percent of the total amount to be distributed in each fiscal year from the Local Government Housing Trust Fund shall be distributed to DCF and DEO as follows:

- 95 percent of the amount must go to the DCF for operating funding and other support to the designated lead agency in each continuum of care for the benefit of the designated catchment area; and
- 5 percent of the amount must go to the DEO to provide training and technical assistance to lead agencies that received funding from DCF.

³⁵ Permanent Supportive Housing is for individuals who need long-term housing assistance with supportive services in order to stay housed. Individuals and families living in supportive housing often have long histories of homelessness and face persistent obstacles to maintaining housing, such as a serious mental illness, a substance use disorder, or a chronic medical problem. Many supportive housing tenants face more than one of these serious conditions. See United States Interagency Council on Homelessness, *Permanent Supportive Housing*, available at http://usich.gov/usich_resources/solutions/explore/permanent_supportive_housing/. (last visited Mar 11, 2015).

Section 6 amends s. 420.9075, F.S., relating to local housing assistance plans and partnerships, to:

- Add “Lead Agencies” as part of the partnership process to participate in the SHIP program.
- Add language to encourage eligible municipalities to develop a strategy for providing program funds to reduce homelessness.
- Remove the criteria applicable to awards made through the SHIP program with the exception that all units constructed, rehabilitated or otherwise receiving assistance from funds available from the local housing assistance trust fund must be occupied by persons with very low, low, or moderate incomes. This would appear to give local entities more flexibility, but at the expense of some safeguards built into the statute.
- Adds a requirement to be included in the annual report required to be submitted by a county or eligible municipality to the corporation.

Section 7 creates s. 420.9089, F.S., relating to the NHTF, to require that funds that are made available to the state from the NHTF be used to develop and build housing to reduce homelessness in Florida. The corporation is required to develop a grant process to award funds to nonprofits to build housing for extremely low income individuals and families.

Section 8 amends s. 420.9071, F.S., to remove from the definition of the term “recaptured funds” the entities that counties or municipalities may recoup funds from and removes the reasons for recouping funds.

Section 9 provides for an effective date of July 1, 2015.

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:

SB 1500 proposes to take the first 4 percent of funds available for distribution from the Local Government Housing Trust Fund, and direct it to DCF and DEO for homelessness projects. (DEO analysis)

This bill proposes to take the first 4 percent of funds available for distribution from the Local Government Housing Trust Fund and direct it to DCF and DEO for homelessness projects. The DEO will receive 5 percent of the total to use for technical assistance with the DCF receiving the other 95 percent. There is not an appropriation impact to the state since this bill is redirecting an existing appropriation. (DEO analysis)

C. Government Sector Impact:

The department reported the fiscal impact to the state relating to the creation of a statewide MIS.³⁶

Fiscal Impact	Fiscal Year 2015-2016			
Department of Children and Families	FTE	GR	Trust	Total
Planning and design for statewide MIS		\$250,000	\$0	\$250,000
Travel		\$50,000	\$0	\$50,000
Total		\$300,000	\$0	\$300,000

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 420.5087, 420.622, 420.624, 420.9073, 420.9075, and 420.9071.

This bill creates the following sections of the Florida Statutes: 420.6265 and 420.9089.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

³⁶ The Department of Children and Families, *Senate Bill 1500 Analysis*, (March 9, 2015).

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate

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House

The Committee on Children, Families, and Elder Affairs (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (3) of section 420.5087, Florida Statutes, is amended to read:

420.5087 State Apartment Incentive Loan Program.—There is hereby created the State Apartment Incentive Loan Program for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-



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11 profit, nonprofit, and public entities, to provide housing
12 affordable to very-low-income persons.

13 (3) During the first 6 months of loan or loan guarantee
14 availability, program funds shall be reserved for use by
15 sponsors who provide the housing set-aside required in
16 subsection (2) for the tenant groups designated in this
17 subsection. The reservation of funds to each of these groups
18 shall be determined using the most recent statewide very-low-
19 income rental housing market study available at the time of
20 publication of each notice of fund availability required by
21 paragraph (6) (b). The reservation of funds within each notice of
22 fund availability to the tenant groups specified in this
23 subsection must be at least ~~in paragraphs (a), (b), and (c) may~~
24 ~~not be less than~~ 10 percent of the funds available at that time.
25 Any increase in funding required to reach the 10-percent minimum
26 must be taken from the tenant group that has the largest
27 reservation. ~~The reservation of funds within each notice of fund~~
28 ~~availability to the tenant group in paragraph (c) may not be~~
29 ~~less than 5 percent of the funds available at that time. The~~
30 ~~reservation of funds within each notice of fund availability to~~
31 ~~the tenant group in paragraph (d) may not be more than 10~~
32 ~~percent of the funds available at that time.~~ The tenant groups
33 are:

- 34 (a) Commercial fishing workers and farmworkers;
- 35 (b) Families;
- 36 (c) Persons who are homeless;
- 37 (d) Persons with special needs; and
- 38 (e) Elderly persons. Ten percent of the amount reserved for
39 the elderly shall be reserved to provide loans to sponsors of



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40 housing for the elderly for the purpose of making building
41 preservation, health, or sanitation repairs or improvements
42 which are required by federal, state, or local regulation or
43 code, or lifesafety or security-related repairs or improvements
44 to such housing. Such a loan may not exceed \$750,000 per housing
45 community for the elderly. In order to receive the loan, the
46 sponsor of the housing community must make a commitment to match
47 at least 5 percent of the loan amount to pay the cost of such
48 repair or improvement. The corporation shall establish the rate
49 of interest on the loan, which may not exceed 3 percent, and the
50 term of the loan, which may not exceed 15 years; however, if the
51 lien of the corporation's encumbrance is subordinate to the lien
52 of another mortgagee, then the term may be made coterminous with
53 the longest term of the superior lien. The term of the loan
54 shall be based on a credit analysis of the applicant. The
55 corporation may forgive indebtedness for a share of the loan
56 attributable to the units in a project reserved for extremely-
57 low-income elderly by nonprofit organizations, as defined in s.
58 420.0004(5), where the project has provided affordable housing
59 to the elderly for 15 years or more. The corporation shall
60 establish, by rule, the procedure and criteria for receiving,
61 evaluating, and competitively ranking all applications for loans
62 under this paragraph. A loan application must include evidence
63 of the first mortgagee's having reviewed and approved the
64 sponsor's intent to apply for a loan. A nonprofit organization
65 or sponsor may not use the proceeds of the loan to pay for
66 administrative costs, routine maintenance, or new construction.

67 Section 2. Paragraphs (a) and (b) of subsection (3) and
68 subsections (4), (5), and (6) of section 420.622, Florida



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69 Statutes, are amended to read:

70 420.622 State Office on Homelessness; Council on
71 Homelessness.—

72 (3) The State Office on Homelessness, pursuant to the
73 policies set by the council and subject to the availability of
74 funding, shall:

75 (a) Coordinate among state, local, and private agencies and
76 providers to produce a statewide consolidated inventory program
77 ~~and financial plan~~ for the state's entire system of homeless
78 programs which incorporates regionally developed plans. Such
79 programs include, but are not limited to:

80 1. Programs authorized under the Stewart B. McKinney
81 Homeless Assistance Act of 1987, 42 U.S.C. ss. 11371 et seq.,
82 and carried out under funds awarded to this state; and

83 2. Programs, components thereof, or activities that assist
84 persons who are homeless or at risk for homelessness.

85 (b) Collect, maintain, and make available information
86 concerning persons who are homeless or at risk for homelessness,
87 including demographics information, current services and
88 resources available, the cost and availability of services and
89 programs, and the met and unmet needs of this population. All
90 entities that receive state funding must provide access to all
91 data they maintain in summary form, with no individual
92 identifying information, to assist the council in providing this
93 information. The State Office of Homelessness shall establish a
94 task force to make recommendations regarding the implementation
95 of a statewide Homeless Management Information System (HMIS).
96 The task force shall define the conceptual framework of such a
97 system; study existing statewide HMIS models; establish an



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98 inventory of local HMIS systems, including providers and license
99 capacity; examine the aggregated reporting being provided by
100 local continuums of care; complete an analysis of current
101 continuum of care resources; and provide recommendations on the
102 costs and benefits of implementing a statewide HMIS. The task
103 force shall also make recommendations regarding the development
104 of a statewide, centralized coordinated assessment system in
105 conjunction with the implementation of a statewide HMIS. The
106 task force findings must be reported to the Council on
107 Homelessness no later than December 31, 2015. ~~The council shall~~
108 ~~explore the potential of creating a statewide Management~~
109 ~~Information System (MIS), encouraging the future participation~~
110 ~~of any bodies that are receiving awards or grants from the~~
111 ~~state, if such a system were adopted, enacted, and accepted by~~
112 ~~the state.~~

113 (4) The State Office on Homelessness, with the concurrence
114 of the Council on Homelessness, shall ~~may~~ accept and administer
115 moneys appropriated to it to provide annual "Challenge Grants"
116 to lead agencies of homeless assistance continuums of care
117 designated by the State Office on Homelessness pursuant to s.
118 420.624. The department shall establish varying levels of grant
119 awards up to \$500,000 per lead agency. ~~Award levels shall be~~
120 ~~based upon the total population within the continuum of care~~
121 ~~catchment area and reflect the differing degrees of homelessness~~
122 ~~in the catchment planning areas.~~ The department, in consultation
123 with the Council on Homelessness, shall specify a grant award
124 level in the notice of the solicitation of grant applications.

125 (a) To qualify for the grant, a lead agency must develop
126 and implement a local homeless assistance continuum of care plan



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127 for its designated catchment area. The continuum of care plan
128 must implement a coordinated assessment or central intake system
129 to screen, assess, and refer persons seeking assistance to the
130 appropriate service provider. The lead agency shall also
131 document the commitment of local government and private
132 organizations to provide matching funds or in-kind support in an
133 amount equal to the grant requested. Expenditures of leveraged
134 funds or resources, including third-party cash or in-kind
135 contributions, are permitted only for eligible activities
136 committed on one project which have not been used as leverage or
137 match for any other project or program and must be certified
138 through a written commitment.

139 (b) Preference must be given to those lead agencies that
140 have demonstrated the ability of their continuum of care to
141 provide quality services to homeless persons and the ability to
142 leverage federal homeless-assistance funding under the Stewart
143 B. McKinney Act with local government and private funding for
144 the provision of services to homeless persons.

145 (c) Preference must be given to lead agencies in catchment
146 areas with the greatest need for the provision of housing and
147 services to the homeless, relative to the population of the
148 catchment area.

149 (d) The grant may be used to fund any of the housing,
150 program, or service needs included in the local homeless
151 assistance continuum of care plan. The lead agency may allocate
152 the grant to programs, services, or housing providers that
153 implement the local homeless assistance continuum care plan. The
154 lead agency may provide subgrants to a local agency to implement
155 programs or services or provide housing identified for funding



156 in the lead agency's application to the department. A lead
157 agency may spend a maximum of 8 percent of its funding on
158 administrative costs.

159 (e) The lead agency shall submit a final report to the
160 department documenting the outcomes achieved by the grant in
161 enabling persons who are homeless to return to permanent housing
162 thereby ending such person's episode of homelessness.

163 (5) The State Office on Homelessness, with the concurrence
164 of the Council on Homelessness, may administer moneys
165 appropriated to it to provide homeless housing assistance grants
166 annually to lead agencies for local homeless assistance
167 continuum of care, as recognized by the State Office on
168 Homelessness, to acquire, construct, or rehabilitate
169 transitional or permanent housing units for homeless persons.
170 These moneys shall consist of any sums that the state may
171 appropriate, as well as money received from donations, gifts,
172 bequests, or otherwise from any public or private source, which
173 are intended to acquire, construct, or rehabilitate transitional
174 or permanent housing units for homeless persons.

175 (a) Grant applicants shall be ranked competitively.
176 Preference must be given to applicants who leverage additional
177 private funds and public funds, particularly federal funds
178 designated for the acquisition, construction, or rehabilitation
179 of transitional or permanent housing for homeless persons; who
180 acquire, build, or rehabilitate the greatest number of units; or
181 ~~and~~ who acquire, build, or rehabilitate in catchment areas
182 having the greatest need for housing for the homeless relative
183 to the population of the catchment area.

184 (b) Funding for any particular project may not exceed



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185 \$750,000.

186 (c) Projects must reserve, for a minimum of 10 years, the
187 number of units acquired, constructed, or rehabilitated through
188 homeless housing assistance grant funding to serve persons who
189 are homeless at the time they assume tenancy.

190 (d) No more than two grants may be awarded annually in any
191 given local homeless assistance continuum of care catchment
192 area.

193 (e) A project may not be funded which is not included in
194 the local homeless assistance continuum of care plan, as
195 recognized by the State Office on Homelessness, for the
196 catchment area in which the project is located.

197 (f) The maximum percentage of funds that the State Office
198 on Homelessness and each applicant may spend on administrative
199 costs is 5 percent.

200 (6) The State Office on Homelessness, in conjunction with
201 the Council on Homelessness, shall establish performance
202 measures and specific objectives by which it may ~~to~~ evaluate the
203 ~~effective~~ performance and outcomes of lead agencies that receive
204 grant funds. Any funding through the State Office on
205 Homelessness shall be distributed to lead agencies based on
206 their overall performance and their achievement of specified
207 objectives. Each lead agency for which grants are made under
208 this section shall provide the State Office on Homelessness a
209 thorough evaluation of the effectiveness of the program in
210 achieving its stated purpose. In evaluating the performance of
211 the lead agencies, the State Office on Homelessness shall base
212 its criteria upon the program objectives, goals, and priorities
213 that were set forth by the lead agencies in their proposals for



214 funding. Such criteria may include, but not be limited to, the
215 number of persons or households that are no longer homeless, the
216 rate of recidivism to homelessness, and the number of persons
217 who obtain gainful employment ~~homeless individuals provided~~
218 ~~shelter, food, counseling, and job training.~~

219 Section 3. Subsections (3), (7), and (8) of section
220 420.624, Florida Statutes, are amended to read:

221 420.624 Local homeless assistance continuum of care.—

222 (3) Communities or regions seeking to implement a local
223 homeless assistance continuum of care are encouraged to develop
224 and annually update a written plan that includes a vision for
225 the continuum of care, an assessment of the supply of and demand
226 for housing and services for the homeless population, and
227 specific strategies and processes for providing the components
228 of the continuum of care. The State Office on Homelessness, in
229 conjunction with the Council on Homelessness, shall include in
230 the plan a methodology for assessing performance and outcomes.

231 The State Office on Homelessness shall supply a standardized
232 format for written plans, including the reporting of data.

233 (7) The components of a continuum of care plan should
234 include:

235 (a) Outreach, intake, and assessment procedures in order to
236 identify the service and housing needs of an individual or
237 family and to link them with appropriate housing, services,
238 resources, and opportunities;

239 (b) Emergency shelter, in order to provide a safe, decent
240 alternative to living in the streets;

241 (c) Transitional housing;

242 (d) Supportive services, designed to assist with the



243 development of the skills necessary to secure and retain
244 permanent housing;

245 (e) Permanent supportive housing;

246 (f) Rapid ReHousing, as specified in s. 420.6265;

247 (g) ~~(f)~~ Permanent housing;

248 (h) ~~(g)~~ Linkages and referral mechanisms among all
249 components to facilitate the movement of individuals and
250 families toward permanent housing and self-sufficiency;

251 (i) ~~(h)~~ Services and resources to prevent housed persons
252 from becoming or returning to homelessness; and

253 (j) ~~(i)~~ An ongoing planning mechanism to address the needs
254 of all subgroups of the homeless population, including but not
255 limited to:

- 256 1. Single adult males;
- 257 2. Single adult females;
- 258 3. Families with children;
- 259 4. Families with no children;
- 260 5. Unaccompanied children and youth;
- 261 6. Elderly persons;
- 262 7. Persons with drug or alcohol addictions;
- 263 8. Persons with mental illness;
- 264 9. Persons with dual or multiple physical or mental
265 disorders;
- 266 10. Victims of domestic violence; and
- 267 11. Persons living with HIV/AIDS.

268 (8) Continuum of care plans must promote participation by
269 all interested individuals and organizations and may not exclude
270 individuals and organizations on the basis of race, color,
271 national origin, sex, handicap, familial status, or religion.



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272 Faith-based organizations must be encouraged to participate. To
273 the extent possible, these components shall ~~should~~ be
274 coordinated and integrated with other mainstream health, social
275 services, and employment programs for which homeless populations
276 may be eligible, including Medicaid, State Children's Health
277 Insurance Program, Temporary Assistance for Needy Families, Food
278 Assistance Program, and services funded through the Mental
279 Health and Substance Abuse Block Grant, the Workforce Investment
280 Act, and the welfare-to-work grant program.

281 Section 4. Section 420.6265, Florida Statutes, is created
282 to read:

283 420.6265 Rapid ReHousing.-

284 (1) LEGISLATIVE FINDINGS AND INTENT.-

285 (a) The Legislature finds that Rapid ReHousing is a
286 strategy of using temporary financial assistance and case
287 management to quickly move an individual or family out of
288 homelessness and into permanent housing.

289 (b) The Legislature also finds that, for most of the past
290 two decades, public and private solutions to homelessness have
291 focused on providing individuals and families who are
292 experiencing homelessness with emergency shelter, transitional
293 housing, or a combination of both. While emergency shelter and
294 transitional housing programs may provide critical access to
295 services for individuals and families in crisis, they often fail
296 to address their long-term needs.

297 (c) The Legislature further finds that most households
298 become homeless as a result of a financial crisis that prevents
299 individuals and families from paying rent or a domestic conflict
300 that results in one member being ejected or leaving without



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301 resources or a plan for housing.

302 (d) The Legislature further finds that Rapid ReHousing is
303 an alternative approach to the current system of emergency
304 shelter or transitional housing which tends to reduce the length
305 of time of homelessness and has proven to be cost effective.

306 (e) It is therefore the intent of the Legislature to
307 encourage homeless continuums of care to adopt the Rapid
308 ReHousing approach to preventing homelessness for individuals
309 and families who do not require the intense level of supports
310 provided in the Permanent Supportive Housing model.

311 (2) RAPID REHOUSING METHODOLOGY.-

312 (a) The Rapid ReHousing approach to homelessness differs
313 from traditional approaches to addressing homelessness by
314 focusing on each individual's or family's barriers to returning
315 to housing. By using this approach, communities can
316 significantly reduce the amount of time that individuals and
317 families are homeless and prevent further episodes of
318 homelessness.

319 (b) In Rapid ReHousing, an individual or family is
320 identified as being homeless, temporary assistance is provided
321 to allow the individual or family to obtain permanent housing as
322 quickly as possible, and, if needed, assistance is provided to
323 allow the individual or family to retain housing.

324 (c) The objective of Rapid ReHousing is to provide
325 assistance for as short a term as possible so that the
326 individual or family receiving assistance does not develop a
327 dependency on the assistance.

328 Section 5. Paragraph (26) of section 420.9071, Florida
329 Statutes, is amended to read:



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330 420.9071 Definitions.—As used in ss. 420.907-420.9079, the
331 term:

332 (26) "Rent subsidies" means ongoing monthly rental
333 assistance. ~~The term does not include initial assistance to~~
334 ~~tenants, such as grants or loans for security and utility~~
335 ~~deposits.~~

336 Section 6. Subsection (7) of section 420.9072, Florida
337 Statutes, is amended, present subsections (8) and (9) of that
338 section are redesignated as subsections (9) and (10),
339 respectively, and a new subsection (8) is added to that section,
340 to read:

341 420.9072 State Housing Initiatives Partnership Program.—The
342 State Housing Initiatives Partnership Program is created for the
343 purpose of providing funds to counties and eligible
344 municipalities as an incentive for the creation of local housing
345 partnerships, to expand production of and preserve affordable
346 housing, to further the housing element of the local government
347 comprehensive plan specific to affordable housing, and to
348 increase housing-related employment.

349 (7) A county or an eligible municipality must expend its
350 portion of the local housing distribution only to implement a
351 local housing assistance plan or as provided in this subsection.
352 ~~A county or an eligible municipality may not expend its portion~~
353 ~~of the local housing distribution to provide rent subsidies;~~
354 ~~however, this does not prohibit the use of funds for security~~
355 ~~and utility deposit assistance.~~

356 (8) A county or an eligible municipality may not expend its
357 portion of the local housing distribution to provide ongoing
358 rent subsidies, except for:



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359 (a) Security and utility deposit assistance.
360 (b) Eviction prevention not to exceed 6 months' rent.
361 (c) A rent subsidy program for very-low-income households
362 with at least one adult who is a person with special needs as
363 defined in s. 420.0004 or homeless as defined in s 420.621. The
364 period of rental assistance may not exceed 24 months for any
365 eligible household.
366 (9)~~(8)~~ Funds distributed under this program may not be
367 pledged to pay the debt service on any bonds.
368 (10)~~(9)~~ The corporation shall adopt rules necessary to
369 implement ss. 420.907-420.9079.
370 Section 7. Present subsections (5) through (7) of section
371 420.9073, Florida Statutes, are redesignated as subsections (6)
372 through (8), and a new subsection (5) is added to that section,
373 to read:
374 420.9073 Local housing distributions.-
375 (5) Notwithstanding subsections (1) through (4), the
376 corporation shall first distribute 4 percent of the total amount
377 to be distributed in a given fiscal year from the Local
378 Government Housing Trust Fund to the Department of Children and
379 Families and the Department of Economic Opportunity as follows:
380 (a) The Department of Children and Families shall receive
381 95 percent of such amount to provide operating funds and other
382 support to the designated lead agency in each continuum of care
383 for the benefit of the designated catchment area as described in
384 s. 420.624.
385 (b) The Department of Economic Opportunity shall receive 5
386 percent of such amount to provide training and technical
387 assistance to lead agencies receiving operating funds and other



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388 support under paragraph (a) in accordance with s. 420.606(3).
389 Training and technical assistance funded by this distribution
390 shall be provided by a nonprofit entity that meets the
391 requirements of s. 420.531.

392 Section 8. Paragraph (a) of subsection (2) of section
393 420.9075, Florida Statutes, is amended, paragraph (f) is added
394 to subsection (3), subsection (5) of that section is amended,
395 and paragraph (i) is added to subsection (10) of that section,
396 to read:

397 420.9075 Local housing assistance plans; partnerships.—

398 (2) (a) Each county and each eligible municipality
399 participating in the State Housing Initiatives Partnership
400 Program shall encourage the involvement of appropriate public
401 sector and private sector entities as partners in order to
402 combine resources to reduce housing costs for the targeted
403 population. This partnership process should involve:

- 404 1. Lending institutions.
- 405 2. Housing builders and developers.
- 406 3. Nonprofit and other community-based housing and service
407 organizations.
- 408 4. Providers of professional services relating to
409 affordable housing.
- 410 5. Advocates for low-income persons, including, but not
411 limited to, homeless people, the elderly, and migrant
412 farmworkers.
- 413 6. Real estate professionals.
- 414 7. Other persons or entities who can assist in providing
415 housing or related support services.
- 416 8. Lead agencies of local homeless assistance continuums of



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417 care.

418 (3)

419 (f) Each county and each eligible municipality is
420 encouraged to develop a strategy within its local housing
421 assistance plan which provides program funds for reducing
422 homelessness.

423 (5) The following criteria apply to awards made to eligible
424 sponsors or eligible persons for the purpose of providing
425 eligible housing:

426 ~~(a) At least 65 percent of the funds made available in each~~
427 ~~county and eligible municipality from the local housing~~
428 ~~distribution must be reserved for home ownership for eligible~~
429 ~~persons.~~

430 (a)~~(b)~~ At least 75 percent of the funds made available in
431 each county and eligible municipality from the local housing
432 distribution must be reserved for construction, rehabilitation,
433 or emergency repair of affordable, eligible housing.

434 (b)~~(e)~~ Not more than 20 percent of the funds made available
435 in each county and eligible municipality from the local housing
436 distribution may be used for manufactured housing.

437 (c)~~(d)~~ The sales price or value of new or existing eligible
438 housing may not exceed 90 percent of the average area purchase
439 price in the statistical area in which the eligible housing is
440 located. Such average area purchase price may be that calculated
441 for any 12-month period beginning not earlier than the fourth
442 calendar year prior to the year in which the award occurs or as
443 otherwise established by the United States Department of the
444 Treasury.

445 (d)~~(e)~~ 1. All units constructed, rehabilitated, or otherwise



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446 assisted with the funds provided from the local housing
447 assistance trust fund must be occupied by very-low-income
448 persons, low-income persons, and moderate-income persons except
449 as otherwise provided in this section.

450 2. At least 30 percent of the funds deposited into the
451 local housing assistance trust fund must be reserved for awards
452 to very-low-income persons or eligible sponsors who will serve
453 very-low-income persons and at least an additional 30 percent of
454 the funds deposited into the local housing assistance trust fund
455 must be reserved for awards to low-income persons or eligible
456 sponsors who will serve low-income persons. This subparagraph
457 does not apply to a county or an eligible municipality that
458 includes, or has included within the previous 5 years, an area
459 of critical state concern designated or ratified by the
460 Legislature for which the Legislature has declared its intent to
461 provide affordable housing. The exemption created by this act
462 expires on July 1, 2013, and shall apply retroactively.

463 (e)~~(f)~~ Loans shall be provided for periods not exceeding 30
464 years, except for deferred payment loans or loans that extend
465 beyond 30 years which continue to serve eligible persons.

466 (f)~~(g)~~ Loans or grants for eligible rental housing
467 constructed, rehabilitated, or otherwise assisted from the local
468 housing assistance trust fund must be subject to recapture
469 requirements as provided by the county or eligible municipality
470 in its local housing assistance plan unless reserved for
471 eligible persons for 15 years or the term of the assistance,
472 whichever period is longer. Eligible sponsors that offer rental
473 housing for sale before 15 years or that have remaining
474 mortgages funded under this program must give a first right of



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475 refusal to eligible nonprofit organizations for purchase at the
476 current market value for continued occupancy by eligible
477 persons.

478 (g)~~(h)~~ Loans or grants for eligible owner-occupied housing
479 constructed, rehabilitated, or otherwise assisted from proceeds
480 provided from the local housing assistance trust fund shall be
481 subject to recapture requirements as provided by the county or
482 eligible municipality in its local housing assistance plan.

483 (h)~~(i)~~ The total amount of monthly mortgage payments or the
484 amount of monthly rent charged by the eligible sponsor or her or
485 his designee must be made affordable.

486 (i)~~(j)~~ The maximum sales price or value per unit and the
487 maximum award per unit for eligible housing benefiting from
488 awards made pursuant to this section must be established in the
489 local housing assistance plan.

490 (j)~~(k)~~ The benefit of assistance provided through the State
491 Housing Initiatives Partnership Program must accrue to eligible
492 persons occupying eligible housing. This provision shall not be
493 construed to prohibit use of the local housing distribution
494 funds for a mixed income rental development.

495 (k)~~(l)~~ Funds from the local housing distribution not used
496 to meet the criteria established in paragraph (a) ~~or paragraph~~
497 ~~(b)~~ or not used for the administration of a local housing
498 assistance plan must be used for housing production and finance
499 activities, including, but not limited to, financing
500 preconstruction activities or the purchase of existing units,
501 providing rental housing, and providing home ownership training
502 to prospective home buyers and owners of homes assisted through
503 the local housing assistance plan.



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504 1. Notwithstanding the provisions of paragraph ~~paragraphs~~
505 (a) ~~and (b)~~, program income as defined in s. 420.9071(24) may
506 also be used to fund activities described in this paragraph.

507 2. When preconstruction due-diligence activities conducted
508 as part of a preservation strategy show that preservation of the
509 units is not feasible and will not result in the production of
510 an eligible unit, such costs shall be deemed a program expense
511 rather than an administrative expense if such program expenses
512 do not exceed 3 percent of the annual local housing
513 distribution.

514 3. If both an award under the local housing assistance plan
515 and federal low-income housing tax credits are used to assist a
516 project and there is a conflict between the criteria prescribed
517 in this subsection and the requirements of s. 42 of the Internal
518 Revenue Code of 1986, as amended, the county or eligible
519 municipality may resolve the conflict by giving precedence to
520 the requirements of s. 42 of the Internal Revenue Code of 1986,
521 as amended, in lieu of following the criteria prescribed in this
522 subsection with the exception of paragraph (d) ~~paragraphs (a)~~
523 ~~and (e)~~ of this subsection.

524 4. Each county and each eligible municipality may award
525 funds as a grant for construction, rehabilitation, or repair as
526 part of disaster recovery or emergency repairs or to remedy
527 accessibility or health and safety deficiencies. Any other
528 grants must be approved as part of the local housing assistance
529 plan.

530 (10) Each county or eligible municipality shall submit to
531 the corporation by September 15 of each year a report of its
532 affordable housing programs and accomplishments through June 30



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533 immediately preceding submittal of the report. The report shall
534 be certified as accurate and complete by the local government's
535 chief elected official or his or her designee. Transmittal of
536 the annual report by a county's or eligible municipality's chief
537 elected official, or his or her designee, certifies that the
538 local housing incentive strategies, or, if applicable, the local
539 housing incentive plan, have been implemented or are in the
540 process of being implemented pursuant to the adopted schedule
541 for implementation. The report must include, but is not limited
542 to:

543 (i) A description of efforts to reduce homelessness.

544 Section 9. Section 420.9089, Florida Statutes, is created
545 to read:

546 420.9089 National Housing Trust Fund.—The Legislature finds
547 that more funding for housing to assist the homeless is needed
548 and encourages the state entity designated to administer funds
549 made available to the state from the National Housing Trust Fund
550 to propose an allocation plan that includes strategies to reduce
551 homelessness in this state. These strategies to address
552 homelessness shall be in addition to strategies under s.
553 420.5087.

554 Section 10. Subsection (25) of section 420.9071, Florida
555 Statutes, is amended to read:

556 420.9071 Definitions.—As used in ss. 420.907-420.9079, the
557 term:

558 (25) "Recaptured funds" means funds that are recouped by a
559 county or eligible municipality in accordance with the recapture
560 provisions of its local housing assistance plan pursuant to s.
561 420.9075(5)(g) ~~s. 420.9075(5)(h)~~ from eligible persons or



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562 eligible sponsors, which funds were not used for assistance to
563 an eligible household for an eligible activity, when there is a
564 default on the terms of a grant award or loan award.

565 Section 11. This act shall take effect July 1, 2015.

566

567

568 ===== T I T L E A M E N D M E N T =====

569 And the title is amended as follows:

570 Delete everything before the enacting clause
571 and insert:

572

A bill to be entitled

573

An act relating to housing for the homeless; amending

574

s. 420.5087, F.S.; requiring that the reservation of

575

funds within each notice of fund availability to

576

persons who are homeless and persons with special

577

needs be at least 10 percent of the funds available at

578

the time of the notice; amending s. 420.622, F.S.;

579

requiring that the State Office on Homelessness

580

coordinate among certain agencies and providers to

581

produce a statewide consolidated inventory for the

582

state's entire system of homeless programs which

583

incorporates regionally developed plans; directing the

584

State Office on Homelessness to create a task force to

585

make recommendations regarding the implementation of a

586

statewide Homeless Management Information System

587

(HMIS) subject to certain requirements; requiring the

588

task force to include in its recommendations the

589

development of a statewide, centralized coordinated

590

assessment system; requiring the task force to submit



591 a report to the Council on Homelessness by a specified
592 date; deleting the requirement that the Council on
593 Homelessness explore the potential of creating a
594 statewide Management Information System and encourage
595 future participation of certain award or grant
596 recipients; requiring the State Office on Homelessness
597 to accept and administer moneys appropriated to it to
598 provide annual Challenge Grants to certain lead
599 agencies of homeless assistance continuums of care;
600 removing the requirement that levels of grant awards
601 be based upon the total population within the
602 continuum of care catchment area and reflect the
603 differing degrees of homelessness in the respective
604 areas; allowing expenditures of leveraged funds or
605 resources only for eligible activities subject to
606 certain requirements; providing that preference for a
607 grant award must be given to those lead agencies that
608 have demonstrated the ability to leverage specified
609 federal homeless-assistance funding with local
610 government funding, as well as private funding, for
611 the provision of services to homeless persons;
612 revising preference conditions relating to grant
613 applicants; requiring the State Office on
614 Homelessness, in conjunction with the Council on
615 Homelessness, to establish specific objectives by
616 which it may evaluate the outcomes of certain lead
617 agencies; requiring that any funding through the State
618 Office on Homelessness be distributed to lead agencies
619 based on their performance and achievement of



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620 specified objectives; revising the factors that may be
621 included as criteria for evaluating the performance of
622 lead agencies; amending s. 420.624, F.S.; revising
623 requirements for the local homeless assistance
624 continuum of care plan; providing that the components
625 of a continuum of care plan should include Rapid
626 ReHousing; requiring that specified components of a
627 continuum of care plan be coordinated and integrated
628 with other specified services and programs; creating
629 s. 420.6265, F.S.; providing legislative findings and
630 intent relating to Rapid ReHousing; providing a Rapid
631 ReHousing methodology; amending s. 420.9071, F.S.;
632 redefining the term "rent subsidies"; amending s.
633 420.9072, F.S.; prohibiting a county or an eligible
634 municipality from expending its portion of the local
635 housing distribution to provide ongoing rent
636 subsidies; specifying exceptions; amending s.
637 420.9073, F.S.; requiring the Florida Housing Finance
638 Corporation to first distribute a certain percentage
639 of the total amount to be distributed each fiscal year
640 from the Local Government Housing Trust Fund to the
641 Department of Children and Families and to the
642 Department of Economic Opportunity, respectively,
643 subject to certain requirements; amending s. 420.9075,
644 F.S.; providing that a certain partnership process of
645 the State Housing Initiatives Partnership Program
646 should involve lead agencies of local homeless
647 assistance continuums of care; encouraging counties
648 and eligible municipalities to develop a strategy



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649 within their local housing assistance plans which
650 provides program funds for reducing homelessness;
651 revising the criteria that apply to awards made to
652 sponsors or persons for the purpose of providing
653 housing; requiring that a specified report submitted
654 by counties and municipalities include a description
655 of efforts to reduce homelessness; creating s.
656 420.9089, F.S.; providing legislative findings and
657 intent; amending s. 420.9071, F.S.; conforming a
658 provision to changes made by the act; providing an
659 effective date.

By Senator Latvala

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1 A bill to be entitled
 2 An act relating to housing for the homeless; amending
 3 s. 420.5087, F.S.; requiring that the reservation of
 4 funds within each notice of fund availability to
 5 persons who are homeless and persons with special
 6 needs be at least 10 percent of the funds available at
 7 the time of the notice; amending s. 420.622, F.S.;
 8 requiring that the State Office on Homelessness
 9 coordinate among certain agencies and providers to
 10 produce a statewide consolidated inventory for the
 11 state's entire system of homeless programs which
 12 incorporates regionally developed plans; directing the
 13 Council on Homelessness to develop a statewide
 14 Management Information System and requiring future
 15 participation of certain award or grant recipients;
 16 requiring the State Office on Homelessness to accept
 17 and administer moneys appropriated to it to provide
 18 annual Challenge Grants to certain lead agencies of
 19 homeless assistance continuums of care; removing the
 20 requirement that levels of grant awards be based upon
 21 the total population within the continuum of care
 22 catchment area and reflect the differing degrees of
 23 homelessness in the catchment planning areas;
 24 requiring certain continuum of care plans to implement
 25 a coordinated assessment or central intake system in
 26 conjunction with the statewide Management Information
 27 System to screen, assess, and refer persons seeking
 28 assistance to the appropriate service provider;
 29 providing that preference for a grant award must be

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30 given to those lead agencies that have demonstrated
 31 the ability to leverage specified federal homeless-
 32 assistance funding with local government funding, as
 33 well as private funding, for the provision of services
 34 to homeless persons; requiring, rather than
 35 authorizing, a lead agency to provide subgrants to a
 36 local agency to implement programs or services or
 37 provide housing identified for funding; decreasing the
 38 maximum percent of funding that a lead agency may
 39 spend on administrative costs; directing the State
 40 Office on Homelessness to administer moneys
 41 appropriated to it to provide homeless housing
 42 assistance grants annually to lead agencies for
 43 specified purposes; revising preference conditions
 44 relating to grant applicants; requiring the State
 45 Office on Homelessness, in conjunction with the
 46 Council on Homelessness, to establish specific
 47 objectives by which it may evaluate the outcomes of
 48 certain lead agencies; requiring that any funding
 49 through the State Office on Homelessness be
 50 distributed to lead agencies based on their
 51 performance and achievement of specified objectives;
 52 revising the factors that may be included as criteria
 53 for evaluating the performance of lead agencies;
 54 amending s. 420.624, F.S.; revising requirements for
 55 the local homeless assistance continuum of care plan;
 56 providing that the components of a continuum of care
 57 plan should include Rapid ReHousing; requiring that
 58 specified components of a continuum of care plan be

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59 coordinated and integrated with other specified
60 services and programs; creating s. 420.6265, F.S.;
61 providing legislative findings and intent relating to
62 Rapid ReHousing; providing a Rapid ReHousing
63 methodology; amending s. 420.9073, F.S.; requiring the
64 corporation to first distribute a certain percentage
65 of the total amount to be distributed each fiscal year
66 from the Local Government Housing Trust Fund to the
67 Department of Children and Families, subject to
68 certain requirements; amending s. 420.9075, F.S.;
69 providing that a certain partnership process of the
70 State Housing Initiatives Partnership Program should
71 involve lead agencies of local homeless assistance
72 continuums of care; encouraging counties and eligible
73 municipalities to develop a strategy within their
74 local housing assistance plans which provides program
75 funds for reducing homelessness; revising the criteria
76 that apply to awards made to sponsors or persons for
77 the purpose of providing housing; requiring that a
78 specified report submitted by counties and
79 municipalities include a description of efforts to
80 reduce homelessness; creating s. 420.9089, F.S.;
81 requiring that funds made available to the state from
82 the National Housing Trust Fund be deposited into the
83 State Housing Trust Fund and be used for certain
84 purposes; directing the Florida Housing Finance
85 Corporation to create a grant process for nonprofits
86 to distribute such funds subject to certain
87 requirements; amending s. 420.9071, F.S.; conforming a

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88 provision to changes made by the act; providing an
89 effective date.

91 Be It Enacted by the Legislature of the State of Florida:

93 Section 1. Subsection (3) of section 420.5087, Florida
94 Statutes, is amended to read:

95 420.5087 State Apartment Incentive Loan Program.—There is
96 hereby created the State Apartment Incentive Loan Program for
97 the purpose of providing first, second, or other subordinated
98 mortgage loans or loan guarantees to sponsors, including for-
99 profit, nonprofit, and public entities, to provide housing
100 affordable to very-low-income persons.

101 (3) During the first 6 months of loan or loan guarantee
102 availability, program funds shall be reserved for use by
103 sponsors who provide the housing set-aside required in
104 subsection (2) for the tenant groups designated in this
105 subsection. The reservation of funds to each of these groups
106 shall be determined using the most recent statewide very-low-
107 income rental housing market study available at the time of
108 publication of each notice of fund availability required by
109 paragraph (6) (b). The reservation of funds within each notice of
110 fund availability to the tenant groups specified in this
111 subsection must be at least in paragraphs (a), (b), and (c) may
112 ~~not be less than~~ 10 percent of the funds available at that time.
113 Any increase in funding required to reach the 10-percent minimum
114 must be taken from the tenant group that has the largest
115 reservation. ~~The reservation of funds within each notice of fund~~
116 ~~availability to the tenant group in paragraph (c) may not be~~

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117 ~~less than 5 percent of the funds available at that time. The~~
 118 ~~reservation of funds within each notice of fund availability to~~
 119 ~~the tenant group in paragraph (d) may not be more than 10~~
 120 ~~percent of the funds available at that time. The tenant groups~~
 121 are:

- 122 (a) Commercial fishing workers and farmworkers;
- 123 (b) Families;
- 124 (c) Persons who are homeless;
- 125 (d) Persons with special needs; and
- 126 (e) Elderly persons. Ten percent of the amount reserved for
 127 the elderly shall be reserved to provide loans to sponsors of
 128 housing for the elderly for the purpose of making building
 129 preservation, health, or sanitation repairs or improvements
 130 which are required by federal, state, or local regulation or
 131 code, or lifesafety or security-related repairs or improvements
 132 to such housing. Such a loan may not exceed \$750,000 per housing
 133 community for the elderly. In order to receive the loan, the
 134 sponsor of the housing community must make a commitment to match
 135 at least 5 percent of the loan amount to pay the cost of such
 136 repair or improvement. The corporation shall establish the rate
 137 of interest on the loan, which may not exceed 3 percent, and the
 138 term of the loan, which may not exceed 15 years; however, if the
 139 lien of the corporation's encumbrance is subordinate to the lien
 140 of another mortgagee, then the term may be made coterminous with
 141 the longest term of the superior lien. The term of the loan
 142 shall be based on a credit analysis of the applicant. The
 143 corporation may forgive indebtedness for a share of the loan
 144 attributable to the units in a project reserved for extremely-
 145 low-income elderly by nonprofit organizations, as defined in s.

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146 420.0004(5), where the project has provided affordable housing
 147 to the elderly for 15 years or more. The corporation shall
 148 establish, by rule, the procedure and criteria for receiving,
 149 evaluating, and competitively ranking all applications for loans
 150 under this paragraph. A loan application must include evidence
 151 of the first mortgagee's having reviewed and approved the
 152 sponsor's intent to apply for a loan. A nonprofit organization
 153 or sponsor may not use the proceeds of the loan to pay for
 154 administrative costs, routine maintenance, or new construction.

155 Section 2. Paragraphs (a) and (b) of subsection (3),
 156 subsections (4), (5), and (6) of section 420.622, Florida
 157 Statutes, are amended to read:

158 420.622 State Office on Homelessness; Council on
 159 Homelessness.—

160 (3) The State Office on Homelessness, pursuant to the
 161 policies set by the council and subject to the availability of
 162 funding, shall:

163 (a) Coordinate among state, local, and private agencies and
 164 providers to produce a statewide consolidated inventory program
 165 ~~and financial plan~~ for the state's entire system of homeless
 166 programs which incorporates regionally developed plans. Such
 167 programs include, but are not limited to:

168 1. Programs authorized under the Stewart B. McKinney
 169 Homeless Assistance Act of 1987, 42 U.S.C. ss. 11371 et seq.,
 170 and carried out under funds awarded to this state; and

171 2. Programs, components thereof, or activities that assist
 172 persons who are homeless or at risk for homelessness.

173 (b) Collect, maintain, and make available information
 174 concerning persons who are homeless or at risk for homelessness,

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175 including demographics information, current services and
 176 resources available, the cost and availability of services and
 177 programs, and the met and unmet needs of this population. All
 178 entities that receive state funding must provide access to all
 179 data they maintain in summary form, with no individual
 180 identifying information, to assist the council in providing this
 181 information. The council shall develop ~~explore the potential of~~
 182 ~~creating~~ a statewide Management Information System (MIS),
 183 requiring ~~encouraging~~ the future participation of any bodies
 184 that are receiving awards or grants from the state, in the ~~if~~
 185 ~~such a system were adopted, enacted, and accepted~~ by the state.

186 (4) The State Office on Homelessness, with the concurrence
 187 of the Council on Homelessness, shall ~~may~~ accept and administer
 188 moneys appropriated to it to provide annual "Challenge Grants"
 189 to lead agencies of homeless assistance continuums of care
 190 designated by the State Office on Homelessness pursuant to s.
 191 420.624. The department shall establish varying levels of grant
 192 awards up to \$500,000 per lead agency. ~~Award levels shall be~~
 193 ~~based upon the total population within the continuum of care~~
 194 ~~catchment area and reflect the differing degrees of homelessness~~
 195 ~~in the catchment planning areas.~~ The department, in consultation
 196 with the Council on Homelessness, shall specify a grant award
 197 level in the notice of the solicitation of grant applications.

198 (a) To qualify for the grant, a lead agency must develop
 199 and implement a local homeless assistance continuum of care plan
 200 for its designated catchment area. The continuum of care plan
 201 must implement a coordinated assessment or central intake system
 202 in conjunction with the statewide Management Information System
 203 (MIS) to screen, assess, and refer persons seeking assistance to

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204 the appropriate service provider. The lead agency shall also
 205 document the commitment of local government and private
 206 organizations to provide matching funds or in-kind support in an
 207 amount equal to the grant requested.

208 (b) Preference must be given to those lead agencies that
 209 have demonstrated the ability of their continuum of care to
 210 provide quality services to homeless persons and the ability to
 211 leverage federal homeless-assistance funding under the Stewart
 212 B. McKinney Act with local government and private funding for
 213 the provision of services to homeless persons.

214 (c) Preference must be given to lead agencies in catchment
 215 areas with the greatest need for the provision of housing and
 216 services to the homeless, relative to the population of the
 217 catchment area.

218 (d) The grant may be used to fund any of the housing,
 219 program, or service needs included in the local homeless
 220 assistance continuum of care plan. The lead agency may allocate
 221 the grant to programs, services, or housing providers that
 222 implement the local homeless assistance continuum care plan. The
 223 lead agency shall ~~may~~ provide subgrants to a local agency to
 224 implement programs or services or provide housing identified for
 225 funding in the lead agency's application to the department. A
 226 lead agency may spend a maximum of 5 ~~8~~ percent of its funding on
 227 administrative costs.

228 (e) The lead agency shall submit a final report to the
 229 department documenting the outcomes achieved by the grant in
 230 enabling persons who are homeless to return to permanent housing
 231 thereby ending such person's episode of homelessness.

232 (5) The State Office on Homelessness, with the concurrence

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233 of the Council on Homelessness, ~~shall may~~ administer moneys
 234 appropriated to it to provide homeless housing assistance grants
 235 annually to lead agencies for local homeless assistance
 236 continuum of care, as recognized by the State Office on
 237 Homelessness, to acquire, construct, or rehabilitate
 238 transitional or permanent housing units for homeless persons.
 239 These moneys shall consist of any sums that the state may
 240 appropriate, as well as money received from donations, gifts,
 241 bequests, or otherwise from any public or private source, which
 242 are intended to acquire, construct, or rehabilitate transitional
 243 or permanent housing units for homeless persons.

244 (a) Grant applicants shall be ranked competitively.
 245 Preference must be given to applicants who leverage additional
 246 private funds and public funds, particularly federal funds
 247 designated for the acquisition, construction, or rehabilitation
 248 of transitional or permanent housing for homeless persons; who
 249 acquire, build, or rehabilitate the greatest number of units; or
 250 ~~and~~ who acquire, build, or rehabilitate in catchment areas
 251 having the greatest need for housing for the homeless relative
 252 to the population of the catchment area.

253 (b) Funding for any particular project may not exceed
 254 \$750,000.

255 (c) Projects must reserve, for a minimum of 10 years, the
 256 number of units acquired, constructed, or rehabilitated through
 257 homeless housing assistance grant funding to serve persons who
 258 are homeless at the time they assume tenancy.

259 (d) No more than two grants may be awarded annually in any
 260 given local homeless assistance continuum of care catchment
 261 area.

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262 (e) A project may not be funded which is not included in
 263 the local homeless assistance continuum of care plan, as
 264 recognized by the State Office on Homelessness, for the
 265 catchment area in which the project is located.

266 (f) The maximum percentage of funds that the State Office
 267 on Homelessness and each applicant may spend on administrative
 268 costs is 5 percent.

269 (6) The State Office on Homelessness, in conjunction with
 270 the Council on Homelessness, shall establish performance
 271 measures and specific objectives by which it may ~~to~~ evaluate the
 272 effective performance and outcomes of lead agencies that receive
 273 grant funds. Any funding through the State Office on
 274 Homelessness shall be distributed to lead agencies based on
 275 their overall performance and their achievement of specified
 276 objectives. Each lead agency for which grants are made under
 277 this section shall provide the State Office on Homelessness a
 278 thorough evaluation of the effectiveness of the program in
 279 achieving its stated purpose. In evaluating the performance of
 280 the lead agencies, the State Office on Homelessness shall base
 281 its criteria upon the program objectives, goals, and priorities
 282 that were set forth by the lead agencies in their proposals for
 283 funding. Such criteria may include, but not be limited to, the
 284 number of persons or households that are no longer homeless, the
 285 rate of recidivism to homelessness, and the number of persons
 286 who obtain gainful employment ~~homeless individuals provided~~
 287 ~~shelter, food, counseling, and job training.~~

288 Section 3. Subsections (3), (7), and (8) of section
 289 420.624, Florida Statutes, are amended to read:

290 420.624 Local homeless assistance continuum of care.—

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291 (3) Communities or regions seeking to implement a local
 292 homeless assistance continuum of care are encouraged to develop
 293 and annually update a written plan that includes a vision for
 294 the continuum of care, an assessment of the supply of and demand
 295 for housing and services for the homeless population, and
 296 specific strategies and processes for providing the components
 297 of the continuum of care. The State Office on Homelessness, in
 298 conjunction with the Council on Homelessness, shall include in
 299 the plan a methodology for assessing performance and outcomes.

300 The State Office on Homelessness shall supply a standardized
 301 format for written plans, including the reporting of data.

302 (7) The components of a continuum of care plan should
 303 include:

304 (a) Outreach, intake, and assessment procedures in order to
 305 identify the service and housing needs of an individual or
 306 family and to link them with appropriate housing, services,
 307 resources, and opportunities;

308 (b) Emergency shelter, in order to provide a safe, decent
 309 alternative to living in the streets;

310 (c) Transitional housing;

311 (d) Supportive services, designed to assist with the
 312 development of the skills necessary to secure and retain
 313 permanent housing;

314 (e) Permanent supportive housing;

315 (f) Rapid ReHousing, as specified in s. 420.6265;

316 ~~(g)-(f)~~ Permanent housing;

317 ~~(h)-(g)~~ Linkages and referral mechanisms among all
 318 components to facilitate the movement of individuals and
 319 families toward permanent housing and self-sufficiency;

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320 ~~(i)-(h)~~ Services and resources to prevent housed persons
 321 from becoming or returning to homelessness; and
 322 ~~(j)-(i)~~ An ongoing planning mechanism to address the needs
 323 of all subgroups of the homeless population, including but not
 324 limited to:

325 1. Single adult males;

326 2. Single adult females;

327 3. Families with children;

328 4. Families with no children;

329 5. Unaccompanied children and youth;

330 6. Elderly persons;

331 7. Persons with drug or alcohol addictions;

332 8. Persons with mental illness;

333 9. Persons with dual or multiple physical or mental
 334 disorders;

335 10. Victims of domestic violence; and

336 11. Persons living with HIV/AIDS.

337 (8) Continuum of care plans must promote participation by
 338 all interested individuals and organizations and may not exclude
 339 individuals and organizations on the basis of race, color,
 340 national origin, sex, handicap, familial status, or religion.
 341 Faith-based organizations must be encouraged to participate. To
 342 the extent possible, these components shall ~~should~~ be
 343 coordinated and integrated with other mainstream health, social
 344 services, and employment programs for which homeless populations
 345 may be eligible, including Medicaid, State Children's Health
 346 Insurance Program, Temporary Assistance for Needy Families, Food
 347 Assistance Program, and services funded through the Mental
 348 Health and Substance Abuse Block Grant, the Workforce Investment

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349 Act, and the welfare-to-work grant program.

350 Section 4. Section 420.6265, Florida Statutes, is created
351 to read:

352 420.6265 Rapid ReHousing.-

353 (1) LEGISLATIVE FINDINGS AND INTENT.-

354 (a) The Legislature finds that Rapid ReHousing is a
355 strategy of using temporary financial assistance and case
356 management to quickly move a person or family out of
357 homelessness and into permanent housing.

358 (b) The Legislature also finds that, for most of the past
359 two decades, public and private solutions to homelessness have
360 focused on providing individuals and families who are
361 experiencing homelessness with emergency shelter, transitional
362 housing, or a combination of both. While emergency shelter and
363 transitional housing programs may provide critical access to
364 services for individuals and families in crisis, they often fail
365 to address their long-term needs.

366 (c) The Legislature further finds that most households
367 become homeless as a result of a financial crisis that prevents
368 them from paying rent or a domestic conflict that results in one
369 member being ejected or leaving without resources or a plan for
370 housing.

371 (d) The Legislature further finds that Rapid ReHousing is
372 an alternative approach to the current system of emergency
373 shelter or transitional housing which tends to reduce the length
374 of time of homelessness and has proven to be cost effective.

375 (e) It is therefore the intent of the Legislature to
376 encourage homeless continuums of care to adopt the Rapid
377 ReHousing approach to preventing homelessness for individuals

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378 and families who do not require the intense level of supports
379 provided in the Permanent Supportive Housing model.

380 (2) RAPID REHOUSING METHODOLOGY.-

381 (a) The Rapid ReHousing approach to homelessness differs
382 from traditional approaches to addressing homelessness by
383 focusing on each individual's or family's barriers to returning
384 to housing. By using this approach, communities can
385 significantly reduce the amount of time that individuals and
386 families are homeless and prevent further episodes of
387 homelessness.

388 (b) In Rapid ReHousing, an individual or family is
389 identified as being homeless, temporary assistance is provided
390 to allow the individual or family to obtain permanent housing as
391 quickly as possible, and, if needed, assistance is provided to
392 allow the individual or family to retain housing.

393 (c) The objective of Rapid ReHousing is to provide
394 assistance for as short a term as possible so that the
395 individual or family receiving assistance does not develop a
396 dependency on the assistance.

397 Section 5. Present subsections (5) through (7) of section
398 420.9073, Florida Statutes, are redesignated as subsections (6)
399 through (8), and a new subsection (5) is added to that section,
400 to read:

401 420.9073 Local housing distributions.-

402 (5) Notwithstanding subsections (1)-(4), the corporation
403 shall first distribute 4 percent of the total amount to be
404 distributed in a given fiscal year from the Local Government
405 Housing Trust Fund to the Department of Children and Families
406 and the Department of Economic Opportunity as follows:

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407 (a) The Department of Children and Families shall receive
 408 95 percent of such amount to provide operating funds and other
 409 support to the designated lead agency in each continuum of care
 410 for the benefit of the designated catchment area as described in
 411 s. 420.624.

412 (b) The Department of Economic Opportunity shall receive 5
 413 percent of such amount to provide training and technical
 414 assistance to lead agencies receiving operating funds and other
 415 support under paragraph (a) in accordance with s. 420.606(3).
 416 Training and technical assistance funded by this distribution
 417 shall be provided by a nonprofit entity that meets the
 418 requirements of s. 420.531.

419 Section 6. Paragraph (a) of subsection (2) of section
 420 420.9075, Florida Statutes, is amended, paragraph (f) is added
 421 to subsection (3), subsection (5) of that section is amended,
 422 and paragraph (i) is added to subsection (10) of that section,
 423 to read:

424 420.9075 Local housing assistance plans; partnerships.—

425 (2) (a) Each county and each eligible municipality
 426 participating in the State Housing Initiatives Partnership
 427 Program shall encourage the involvement of appropriate public
 428 sector and private sector entities as partners in order to
 429 combine resources to reduce housing costs for the targeted
 430 population. This partnership process should involve:

- 431 1. Lending institutions.
- 432 2. Housing builders and developers.
- 433 3. Nonprofit and other community-based housing and service
 434 organizations.
- 435 4. Providers of professional services relating to

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436 affordable housing.

437 5. Advocates for low-income persons, including, but not
 438 limited to, homeless people, the elderly, and migrant
 439 farmworkers.

440 6. Real estate professionals.

441 7. Other persons or entities who can assist in providing
 442 housing or related support services.

443 8. Lead agencies of local homeless assistance continuums of
 444 care.

445 (3)

446 (f) Each county and each eligible municipality is
 447 encouraged to develop a strategy within its local housing
 448 assistance plan which provides program funds for reducing
 449 homelessness.

450 ~~(5) For The following criteria apply to awards made to~~
 451 ~~eligible sponsors or eligible persons for the purpose of~~
 452 ~~providing eligible housing,+~~

453 ~~(a) At least 65 percent of the funds made available in each~~
 454 ~~county and eligible municipality from the local housing~~
 455 ~~distribution must be reserved for home ownership for eligible~~
 456 ~~persons.~~

457 ~~(b) At least 75 percent of the funds made available in each~~
 458 ~~county and eligible municipality from the local housing~~
 459 ~~distribution must be reserved for construction, rehabilitation,~~
 460 ~~or emergency repair of affordable, eligible housing.~~

461 ~~(c) Not more than 20 percent of the funds made available in~~
 462 ~~each county and eligible municipality from the local housing~~
 463 ~~distribution may be used for manufactured housing.~~

464 ~~(d) The sales price or value of new or existing eligible~~

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465 housing may not exceed 90 percent of the average area purchase
 466 price in the statistical area in which the eligible housing is
 467 located. Such average area purchase price may be that calculated
 468 for any 12-month period beginning not earlier than the fourth
 469 calendar year prior to the year in which the award occurs or as
 470 otherwise established by the United States Department of the
 471 Treasury.

472 ~~(e)1-~~ all units constructed, rehabilitated, or otherwise
 473 assisted with the funds provided from the local housing
 474 assistance trust fund must be occupied by very-low-income
 475 persons, low-income persons, and moderate-income persons except
 476 as otherwise provided in this section.

477 2. At least 30 percent of the funds deposited into the
 478 local housing assistance trust fund must be reserved for awards
 479 to very low income persons or eligible sponsors who will serve
 480 very low income persons and at least an additional 30 percent of
 481 the funds deposited into the local housing assistance trust fund
 482 must be reserved for awards to low income persons or eligible
 483 sponsors who will serve low income persons. This subparagraph
 484 does not apply to a county or an eligible municipality that
 485 includes, or has included within the previous 5 years, an area
 486 of critical state concern designated or ratified by the
 487 Legislature for which the Legislature has declared its intent to
 488 provide affordable housing. The exemption created by this act
 489 expires on July 1, 2013, and shall apply retroactively.

490 ~~(f)~~ Loans shall be provided for periods not exceeding 30
 491 years, except for deferred payment loans or loans that extend
 492 beyond 30 years which continue to serve eligible persons.

493 ~~(g)~~ Loans or grants for eligible rental housing

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494 ~~constructed, rehabilitated, or otherwise assisted from the local~~
 495 ~~housing assistance trust fund must be subject to recapture~~
 496 ~~requirements as provided by the county or eligible municipality~~
 497 ~~in its local housing assistance plan unless reserved for~~
 498 ~~eligible persons for 15 years or the term of the assistance,~~
 499 ~~whichever period is longer. Eligible sponsors that offer rental~~
 500 ~~housing for sale before 15 years or that have remaining~~
 501 ~~mortgages funded under this program must give a first right of~~
 502 ~~refusal to eligible nonprofit organizations for purchase at the~~
 503 ~~current market value for continued occupancy by eligible~~
 504 ~~persons.~~

505 ~~(h)~~ Loans or grants for eligible owner occupied housing
 506 ~~constructed, rehabilitated, or otherwise assisted from proceeds~~
 507 ~~provided from the local housing assistance trust fund shall be~~
 508 ~~subject to recapture requirements as provided by the county or~~
 509 ~~eligible municipality in its local housing assistance plan.~~

510 ~~(i)~~ The total amount of monthly mortgage payments or the
 511 ~~amount of monthly rent charged by the eligible sponsor or her or~~
 512 ~~his designee must be made affordable.~~

513 ~~(j)~~ The maximum sales price or value per unit and the
 514 ~~maximum award per unit for eligible housing benefiting from~~
 515 ~~awards made pursuant to this section must be established in the~~
 516 ~~local housing assistance plan.~~

517 ~~(k)~~ The benefit of assistance provided through the State
 518 ~~Housing Initiatives Partnership Program must accrue to eligible~~
 519 ~~persons occupying eligible housing. This provision shall not be~~
 520 ~~construed to prohibit use of the local housing distribution~~
 521 ~~funds for a mixed income rental development.~~

522 ~~(l)~~ Funds from the local housing distribution not used to

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523 ~~meet the criteria established in paragraph (a) or paragraph (b)~~
 524 ~~or not used for the administration of a local housing assistance~~
 525 ~~plan must be used for housing production and finance activities,~~
 526 ~~including, but not limited to, financing preconstruction~~
 527 ~~activities or the purchase of existing units, providing rental~~
 528 ~~housing, and providing home ownership training to prospective~~
 529 ~~home buyers and owners of homes assisted through the local~~
 530 ~~housing assistance plan.~~

531 ~~1. Notwithstanding the provisions of paragraphs (a) and~~
 532 ~~(b), program income as defined in s. 420.9071(24) may also be~~
 533 ~~used to fund activities described in this paragraph.~~

534 ~~2. When preconstruction due diligence activities conducted~~
 535 ~~as part of a preservation strategy show that preservation of the~~
 536 ~~units is not feasible and will not result in the production of~~
 537 ~~an eligible unit, such costs shall be deemed a program expense~~
 538 ~~rather than an administrative expense if such program expenses~~
 539 ~~do not exceed 3 percent of the annual local housing~~
 540 ~~distribution.~~

541 ~~3. If both an award under the local housing assistance plan~~
 542 ~~and federal low-income housing tax credits are used to assist a~~
 543 ~~project and there is a conflict between the criteria prescribed~~
 544 ~~in this subsection and the requirements of s. 42 of the Internal~~
 545 ~~Revenue Code of 1986, as amended, the county or eligible~~
 546 ~~municipality may resolve the conflict by giving precedence to~~
 547 ~~the requirements of s. 42 of the Internal Revenue Code of 1986,~~
 548 ~~as amended, in lieu of following the criteria prescribed in this~~
 549 ~~subsection with the exception of paragraphs (a) and (c) of this~~
 550 ~~subsection.~~

551 ~~4. Each county and each eligible municipality may award~~

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552 ~~funds as a grant for construction, rehabilitation, or repair as~~
 553 ~~part of disaster recovery or emergency repairs or to remedy~~
 554 ~~accessibility or health and safety deficiencies. Any other~~
 555 ~~grants must be approved as part of the local housing assistance~~
 556 ~~plan.~~

557 (10) Each county or eligible municipality shall submit to
 558 the corporation by September 15 of each year a report of its
 559 affordable housing programs and accomplishments through June 30
 560 immediately preceding submittal of the report. The report shall
 561 be certified as accurate and complete by the local government's
 562 chief elected official or his or her designee. Transmittal of
 563 the annual report by a county's or eligible municipality's chief
 564 elected official, or his or her designee, certifies that the
 565 local housing incentive strategies, or, if applicable, the local
 566 housing incentive plan, have been implemented or are in the
 567 process of being implemented pursuant to the adopted schedule
 568 for implementation. The report must include, but is not limited
 569 to:

570 (i) A description of efforts to reduce homelessness.

571 Section 7. Section 420.9089, Florida Statutes, is created
 572 to read:

573 420.9089 National Housing Trust Fund.—Funds made available
 574 to the state from the National Housing Trust Fund shall be
 575 deposited into the State Housing Trust Fund. Such funds shall be
 576 used to develop and construct housing to reduce homelessness in
 577 this state. The Florida Housing Finance Corporation shall create
 578 a grant process to award funds to nonprofits, based on a
 579 demonstration of need and local government participation, to
 580 construct housing for extremely low-income individuals and

20-00893A-15

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581 families.582 Section 8. Subsection (25) of section 420.9071, Florida
583 Statutes, is amended to read:584 420.9071 Definitions.—As used in ss. 420.907-420.9079, the
585 term:586 (25) “Recaptured funds” means funds that are recouped by a
587 county or eligible municipality in accordance with the recapture
588 provisions of its local housing assistance plan pursuant to s.
589 ~~420.9075(5)(h) from eligible persons or eligible sponsors, which~~
590 ~~funds were not used for assistance to an eligible household for~~
591 ~~an eligible activity, when there is a default on the terms of a~~
592 ~~grant award or loan award.~~

593 Section 9. This act shall take effect July 1, 2015.

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Mike Carroll
Secretary of Children and Families

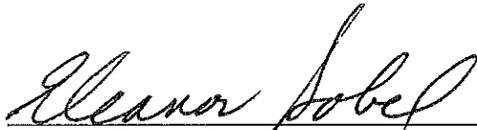
NOTICE OF HEARING

TO: Mr. Mike Carroll

YOU ARE HEREBY NOTIFIED that the Committee on Children, Families, and Elder Affairs of the Florida Senate will conduct a hearing on your executive appointment on Thursday, March 19, 2015, in 301 Senate Office Building, commencing at 1:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 16th day of March, 2015

Committee on Children, Families, and Elder
Affairs



Senator Eleanor Sobel
As Chair and by authority of the committee

cc: Members, Committee on Children, Families, and Elder Affairs
Office of the Sergeant at Arms

A black and white copy of this document is not official

165

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

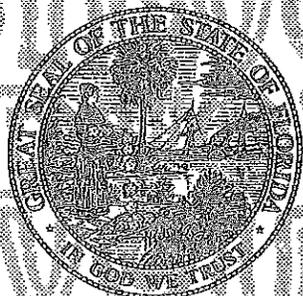
Mike Carroll

is duly appointed

Secretary,
Department of Children and Families

for a term beginning on the
Sixth day of January, A.D., 2015,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Fifth day of February, A.D., 2015.



Ken Detzner

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear

State of Florida appears in small letters across the face of this 8 1/2 x 11 document



RICK SCOTT
GOVERNOR

Amended

RECEIVED

15 FEB 25 PM 1:17

DIVISION OF COLLECTIONS
SECRETARY OF STATE

February 24, 2015

Secretary Kenneth W. Detzner
Department of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 20.19, Florida Statutes:

Secretary Michael P. Carroll
3 Harbor Woods Drive
Safety Harbor, Florida 34695

as Secretary of the Department of Children and Families, subject to confirmation by the Senate. This appointment is effective January 6, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/vh

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2015 JAN 28 PM 4:39
DIVISION OF LICENSING
TALLAHASSEE, FL

STATE OF FLORIDA

County of Hillsborough

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Secretary Department of Children & Families
(Title of Office)

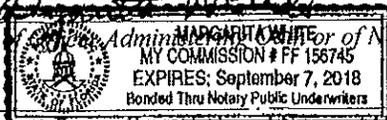
on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

Sworn to and subscribed before me this 23 day of January, 2015.

[Signature]
Signature



Print, Type, or Stamp Commissioned Name of Notary Public MARGARITA WHITE

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

3 HARBOR Woods Drive
Street or Post Office Box

MIKE CARROLL
Print name as you desire commission issued

Safety Harbor, FL
City, State, Zip Code 34695

[Signature]
Signature

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Barbara Jo Palmer
Director, Agency for Persons with Disabilities

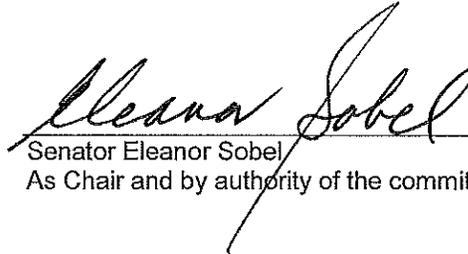
NOTICE OF HEARING

TO: Ms. Barbara Jo Palmer

YOU ARE HEREBY NOTIFIED that the Committee on Children, Families, and Elder Affairs of the Florida Senate will conduct a hearing on your executive appointment on Thursday, March 19, 2015, in 301 Senate Office Building, commencing at 1:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 16th day of March, 2015

Committee on Children, Families, and Elder
Affairs



Senator Eleanor Sobel
As Chair and by authority of the committee

cc: Members, Committee on Children, Families, and Elder Affairs
Office of the Sergeant at Arms

Amended

A black and white copy of this document is not official

565

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

Barbara Palmer

is duly appointed
Director,

Agency for Persons with Disabilities

for a term beginning on the
Sixth day of January, A.D., 2015,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature

Given under my hand and the Great Seal of the
State of Florida at Tallahassee, the Capital, this
the Twenty-sixth day of February, A.D., 2015.



Ken Detzner

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida appears in small letters across the face of this 8 1/2 x 11" document.

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE

2015 FEB -9 PM 3:43

STATE OF FLORIDA

County of Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Executive Director of APD
(Title of Office)

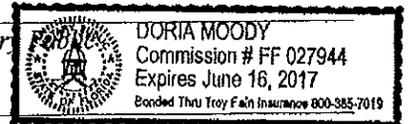
on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Barbara Palmer
Signature

Sworn to and subscribed before me this 9 day of February, 2015.

Doria Moody
Signature of Officer Administering Oath or of Notary



Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

4030 Esplanade Way, Suite 380
Street or Post Office Box

Tallahassee, FL 32399-
City, State, Zip Code 0950

Barbara Palmer
Print name as you desire commission issued

Barbara Palmer
Signature

Amended



RICK SCOTT
GOVERNOR

RECEIVED
15 FEB 25 PM 1:18
DIVISION OF ELECTIONS
SECRETARY OF STATE

February 24, 2015

Secretary Kenneth W. Detzner
Department of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have amended the following reappointment under the provisions of Section 20.197, Florida Statutes:

Ms. Barbara Palmer
1109 Carraway Street
Tallahassee, Florida 32308

as Director of the Agency for Persons with Disabilities, subject to confirmation by the Senate. This appointment is effective January 6, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/vh