

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.
