

STORAGE NAME: s0892a.ltc

DATE: April 22, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELDER AFFAIRS & LONG TERM CARE
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: SB 892

RELATING TO: Substance Abuse Services

SPONSOR(S): Senator Rossin

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) ELDER AFFAIRS & LONG TERM CARE YEAS 6 NAYS 0

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I. SUMMARY:

Senate Bill 892 combines two definitions in chapter 397, F.S., the substance abuse treatment law, clarifying the intent of "medication treatment" and "methadone maintenance treatment" for clients who are dependent on opioid drugs. The bill provides rulemaking authority to the Department of Children and Family Services regarding methods used by licensed substance abuse provider agencies to control aggressive client behavior.

There is no fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In providing treatment services to persons with a substance abuse impairment, s. 397.311(19), F.S., specifies nine service components that may be provided by a substance abuse provider licensed under chapter 397, F.S. Because "methadone maintenance treatment" and "medication" are defined as two service components in s. 397.311(19), F.S., the Department of Children and Family Services (hereafter referred to as the department) believes that the licensure law is confusing and misleading about medication treatment and methadone maintenance treatment as service components regulated by the department under chapter 397, F.S.

Section 397.311(19)(f), F.S., states that "medication treatment" means using authorized drugs to treat clients dependent upon alcohol or other drugs pursuant to a permit or license issued by an appropriate federal authority. According to the department's Substance Abuse Program Office, this definition is misleading because methadone and levo-alpha-acetylmethadol (LAAM) are the only drugs used to treat clients who are dependent upon opioids (e.g., heroin, dilaudid, percodan) and require a federal permit or license. Any licensed physician may prescribe drugs other than methadone or LAAM in treating dependence upon alcohol or other drugs. Physicians who prescribe methadone or LAAM must obtain special approval from the Federal Food and Drug Administration, special registration from the Drug Enforcement Administration as a "Narcotic Treatment Program," and be licensed by the Florida Methadone Authority. Section 397.311(19)(g), F.S., includes a separate definition for "methadone maintenance treatment" but does not specify that methadone is a medication treatment for which a permit or license must be issued by the federal authority. Rather, it only defines methadone maintenance treatment as a constant therapeutic daily dose of methadone following stabilization concomitantly with medical, rehabilitative, and counseling services.

According to the department's General Counsel, chapter 397, F.S., does not provide sufficient statutory authority to support the administrative rules currently in chapter 65D-16, Florida Administrative Code, pertaining to methods used by persons who work in licensed substance abuse treatment programs to control aggressive client behavior. Section 65D-16.004(12), Florida Administrative Code, includes aggression control techniques for programs that choose to use verbal, psychological and physical intervention methods for managing client behavior. Section 65D-16.007, Florida Administrative Code, provides specific requirements for using seclusion rooms and physical and mechanical restraint techniques in addictions receiving facilities, the secure substance abuse facilities. For both client and staff safety, many substance abuse treatment programs need skilled staff who are trained in treating and managing aggressive client behavior.

B. EFFECT OF PROPOSED CHANGES:

Section 397.311(19)(f), F.S., is amended to clarify that medication and methadone maintenance treatment, using methadone or other medication as authorized by state and federal law, are used in conjunction with medical, rehabilitative, and counseling services in the treatment of clients who are dependent upon opioid drugs.

Section 397.501(3), F.S., right to quality services, is amended requiring that substance abuse services licensed under chapter 397, F.S., must use methods and techniques to control aggressive client behavior as specified in the Florida Administrative Code. The bill specifies that staff who use these methods and techniques must be trained in their application. The department is directed to develop administrative rules pertaining to physical facility requirements for seclusion rooms that include dimensions, safety features, methods of observation and contents.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No,

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Chapter 397, F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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VII. SIGNATURES:

COMMITTEE ON ELDER AFFAIRS & LONG TERM CARE:

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