

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1468

SPONSOR: Senator Brown-Waite

SUBJECT: Statewide Drug Control

DATE: March 4, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1468 creates a state Office of Drug Control and state drug policy advisory council within the Executive Office of the Governor.

This CS creates three new, and as yet unnumbered, sections of the Florida Statutes; repeals s. 397.801(1), F.S., and s. 397.811(2), F.S.; and amends s. 397.821(3), F.S.

II. Present Situation:

A. Strategic Direction on State Drug Control Efforts

Presently, state strategic direction, as well as funding, of state drug control programs and services, is largely state agency-driven. Florida has no codified state drug control strategy; therefore, decisions regarding the funding of state substance abuse programs and services are not guided by a state drug control strategy, but rather by the strategies of the individual agencies which they have developed to address the agency's component of the overall state drug control effort, and their funding requests.

Programs and efforts at limiting substance abuse are spread out over numerous agencies. Provided is a thumbnail sketch of some of those programs and efforts:

- One of the duties of the Florida Department of Law Enforcement (FDLE) is investigating major drug trafficking operations. The department also analyzes drug samples, and is involved with two prevention programs: Drug Abuse Resistance Education (DARE), an intervention program designed to teach students skills to reduce peer pressure to experiment with alcohol and other drugs, and the Serious Habitual Offender Comprehensive Action Program (SHOCAP), an interagency information sharing and case management program focused on serious habitual juvenile offenders. The Department of Juvenile Justice and the Department of Education also participate in SHOCAP.

- The Highway Patrol is responsible for seizing illegal substances transported on Florida's highways and apprehending drunken and drugged motorists.
- The Marine Patrol and the Game and Freshwater Fish Commission provide assistance to local, state, and federal drug enforcement efforts (other agencies and offices, such as FDLE, also provide such assistance).
- The National Guard conducts supply reduction (eradication and interdiction) operations and also oversees demand-reduction programs (primarily prevention programs, including two programs funded by the Department of Labor).
- The Division of Alcoholic Beverages and Tobacco is responsible for licensing alcoholic beverage and tobacco industries, collecting and auditing taxes and fees paid by licensees, and enforcing laws and regulations of the alcohol and tobacco industries.
- The Department of Agriculture has issued stop-sale orders on herbal stimulants containing ephedrine, a controlled substance.
- The Office of the Attorney General is responsible for revising, by rule, the controlled substance schedules, when it determines such action is necessary; its actions are subject to subsequent legislative ratification. The Office of Statewide Prosecution provides assistance on numerous drug cases, primarily federal cases, in which its attorneys may be cross-designated as federal prosecutors. The office also provides assistance to multijurisdictional task forces (other agencies and offices, such as FDLE, also provide such assistance).
- The Department of Corrections provides a mechanism for screening, assessing, and directing the placement of substance-abusing offenders into a substance abuse treatment program. The majority of treatment programs are provided through contracts with local private sector treatment providers.
- The Department of Juvenile Justice provides substance abuse services for juvenile offenders, primarily (though not exclusively) through contracted local service providers funded mainly (though not exclusively) by the Department of Children and Family Services. The Department of Juvenile Justice also administers several state and federal grant programs that fund community based-delinquency prevention and early intervention initiatives (substance abuse prevention being a subcomponent of some of those programs).
- The Department of Community Affairs is the administrator of the Drug Control and System Improvement Program (Edward Byrne) authorized under the federal Anti-Drug Abuse Act of 1988 (SDFS), which provides state and local units of government with grant funds in setting up projects designed to address illegal drug use and other problems.
- The Department of Education is the administrator of 80 percent of the monies received under Title IV of the Safe and Drug-Free Schools and Communities Act of 1994, which funds school districts for drug and violence prevention education efforts; the Department of Community Affairs, as the Governor's designee, is responsible for administering the other 20 percent of SDFS funds awarded to the state's Governor or the Governor's designee.

- The Department of Children and Family Services purchases substance abuse treatment services from public and private not-for-profit community providers, and licenses all publicly funded substance abuse prevention and treatment programs in Florida.
- The Agency for Health Care Administration develops and carries out policies relating to the Medicaid program. It contracts with a fiscal agent that processes claims and enrolls non-institutional providers. The Department of Children and Family Services determines Medicaid recipient eligibility.
- The Department of Health, in collaboration with the Department of Children and Family Services, has funded various substance abuse treatment centers around the state to implement an HIV/AIDS prevention program. Services to substance abuse affected families include medical services from the county health departments and Children's Medical Services, Healthy Start care coordination and other services (the Healthy Start program ensures prenatal care for all of Florida's pregnant women), Medicaid, and Family Safety and Preservation Services. The Department of Health operates a Healthy Baby Hotline and the Department of Children and Family Services operates an abuse hotline. Both are sources for service referrals.

B. The Senate Drug Control Project and the Statewide Drug Control Summit

In the summer of 1998, the Senate President directed staff to look at the substance abuse problem in Florida and determine if changes needed to be made to enhance state drug control efforts. In November of 1998, staff submitted a report to the President entitled *Developing a Comprehensive Drug Control Strategy for Florida* (November 1998), Report Number 98-13, Senate Criminal Justice Committee.

The Senate report identified the need for greater coordination of substance abuse policy and planning. The report suggested that such coordination would be enhanced by establishing and institutionalizing a new process for coordinating substance abuse policy and planning by means of creating a state drug control office within the Executive Office of the Governor and a statewide drug policy advisory council. The model proposed in the Senate report specified that the state drug control office would be headed by a director. Staff proposed a model for the drug control office and council. The director and the council, which the director would chair, would be charged with, among other duties, developing and implementing a comprehensive, integrated and multidisciplinary state drug control strategy.

In the Senate report, it was recommended that drug enforcement, prevention, and treatment presummits be convened for the purpose of developing a framework for coordinating substance abuse policy and planning. It was the goal that these presummits would culminate in a state drug control summit in which the actual foundation would be laid for developing a state drug control strategy.

The presummits were convened over the fall and winter of 1998, and strategic recommendations were issued from the presummits. Among the specific strategic recommendations produced from the drug enforcement presummit was the creation of a drug policy coordinator. A recommendation produced from the substance abuse prevention presummit was the creation of a

drug policy coordinating office. A recommendation produced from the substance abuse treatment presummit was the creation of a statewide substance abuse coordinating office and council with the appointment of a high-level policy coordinator in the Governor's office. A further recommendation produced from all of the presummits was the creation of a state drug control strategy.

Subsequent to the presummits and prior to the state drug control summit, state leaders met in Miami to discuss the course for integration of strategic recommendations.

Following this conference, the chairpersons of the presummit steering committees and others met to develop proposed guiding principles to which the strategic recommendations from the presummits were linked. These principles were to serve as a guide for the subsequent development of the state drug control strategy, and also serve as a guide to state lawmakers in terms of decision making, particularly as such decision making relates to the funding of substance abuse programs and services.

On February 12, 1999, the Senate convened a state drug control summit, which was attended by approximately 600 hundred people and included the participation of the Senate President, the House Speaker, the Governor, and numerous other dignitaries. A roundtable of state and federal political leaders, substance abuse professionals, and citizens involved in efforts to limit substance abuse discussed and debated the merits of the proposed guiding principles, and after some revision, ratified the following guiding principles:

- Be comprehensive and integrated in the areas of enforcement, prevention, and treatment;
- Focus on the vital and interrelated role of families, friends, faith representatives, schools, neighborhoods and communities, businesses, and the media in preventing substance abuse and providing education, support, and guidance to substance abusers;
- With the involvement of young people, maximize strong and effective prevention approaches to ensure the health and safety of all persons, including unborn children;
- Be research-based, measurable, and accountable for performance; and
- Be built upon strong, sustained leadership and be long-term in nature.

C. Historical Efforts to Create a Drug Policy Director and Drug Policy Body

Prior to the recent appointment of a state drug policy coordinator, the most recent effort in Florida to create a state drug policy director occurred during the administration of Governor Robert Martinez (1987-1991). In 1987, the Governor's Substance Abuse Policy Advisory Council was informally created by the Office of Planning and Budget. The Council, composed of administrators from nine state agencies, was given the mission of developing an integrated plan for reducing alcohol and drug abuse in Florida and to provide the Governor with recommendations.

In 1988, Governor Martinez, by executive order, created the Governor's Drug Policy Task Force after returning from Washington, D.C., where he met with federal officials including then Vice President, George Bush. That same year, Governor Martinez appointed a Drug Policy Advisor, who also served as the chairperson of the task force. Governor Martinez charged the task force with developing, recommending, and whenever possible, implementing drug control strategies. The task force and council were combined to eliminate duplication. Council members were directed to serve on active working committees and to provide staff resources.

In February of 1989, the task force issued its only report to the Governor, which included extensive recommendations. The task force ended with the Martinez Administration.

D. Current Law

Currently, s. 397.801(1), F.S., provides for the creation of a Statewide Coordinator for Substance Abuse Impairment Prevention and Treatment, and lists a limited number of planning and coordinating duties for that office. Intent language in s. 397.811, F.S., which relates to juvenile substance abuse impairment coordination, and s. 397.821, F.S., which provides for the establishment of juvenile substance abuse impairment prevention and early intervention councils, makes reference to this Statewide Coordinator.

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 1468 creates the Office of Drug Control within the Executive Office of the Governor. The director of this office is appointed by the Governor, subject to Senate confirmation.

The CS defines terms that appear throughout the legislation. "Substance abuse programs and services" or "drug control" "applies generally to the broad continuum of prevention, intervention, and treatment initiatives and efforts to limit substance abuse, and also includes initiatives and efforts by law enforcement agencies to limit substance abuse."

"Substance abuse" is defined as "the use of any substance if such use is unlawful, and use of any substance if such use is detrimental to the user or to others but is not unlawful."

The CS states that it is the intent of the Legislature to establish and institutionalize a rational process for long-range planning, information gathering, and strategic decision making and funding for the purpose of limiting substance abuse.

The CS also states that the Legislature finds that the creation of a state drug control office and a statewide drug policy advisory council affords the best means for establishing and institutionalizing this new process.

Further, the Legislature finds that any rational and cost-effective governmental effort to address substance abuse must involve a comprehensive, integrated, and multidisciplinary approach to the problem of substance abuse.

Further, the Legislature finds that because state resources must be available to address an array of state needs, including the funding of drug control efforts, it is critical that:

- A state drug control strategy be developed and implemented;
- Decisions regarding the funding of substance abuse programs and services be based on the state drug control strategy;
- The drug control strategy be supported by the latest empirical research and data, require performance-based measurement and accountability, and require short-term and long-term objectives;
- The development and implementation of the drug control strategy afford a broad spectrum of the public and private sector the opportunity to comment and make recommendations; and
- Because the nature and the scope of the substance abuse problem transcend the jurisdictional boundaries of any single government agency, the drug control strategy be a comprehensive, integrated, and multidisciplinary response to the substance abuse problem.

The CS provides that the purposes of the Office of Drug Control are to work in collaboration with the Office of Planning and Budgeting (OPB) to:

- Coordinate drug control efforts and enlist the assistance of the public and private sectors in those efforts, including, but not limited to, federal, state and local agencies;
- Provide information to the public about the problem of substance abuse and substance abuse programs and services that are available;
- Act as the Governor's liaison with state agencies, other state governments, the federal Office of National Drug Control Policy, federal agencies, and the public and private sectors, on matters that relate to substance abuse;
- Work to secure funding and other support for the state's drug control efforts, including, but not limited to, establishing cooperative relationships among state and private agencies;
- Develop a strategic program and funding initiative that links the separate jurisdictional activities of state agencies with respect to drug control (the state drug control office is authorized to designate lead and contributing agencies to develop such initiatives);
- Advise the Governor and the Legislature on substance abuse trends in this state, the status of current substance abuse programs and services, funding of those programs and services, and the status of the state drug control office in developing and implementing the state drug control strategy; and
- Make recommendations to the Governor on such measures as the director considers advisable for the effective implementation of the state drug control strategy.

On or before December 1 of each year, the director of the state drug control office shall report to the Governor and the Legislature the information and recommendations the office is required to make in accordance with the sixth and seventh purposes of that office.

The CS also provides for the creation of a Statewide Drug Policy Advisory Council within the Executive Office of the Governor, chaired by the director of the state drug control office, who serves, as does the director of OPB, as a nonvoting, ex officio member of the advisory council. Staff support for the advisory council shall be provided by the state drug control office and the OPB.

The CS directs that the following officials shall be appointed to serve on the advisory council: the Attorney General; the executive director of the Department of Law Enforcement; the Secretary of Children and Family Services; the Secretary of Health; the Secretary of Corrections; the Secretary of Juvenile Justice; the Commissioner of Education; the executive director of the Department of Highway Safety and Motor Vehicles; and the Adjutant General. In lieu of these agency heads, their designees may serve on the council.

The CS also provides that the Governor shall appoint 11 members of the public to serve on the advisory council. Of the 11 members, one member must have professional or occupational expertise in drug enforcement, one member must have professional or occupational expertise in substance-abuse prevention, and one member must have professional or occupational expertise in substance-abuse treatment. The remainder of the 11 members appointed should have professional or occupational expertise in, or be generally knowledgeable about issues that relate to drug enforcement and substance-abuse programs and services. The 11 appointments must, to the extent possible, equitably represent all geographic areas of the state.

The President of the Senate appoints one senator to the council; the Speaker of the House appoints one representative to the council; and the Chief Justice of the Florida Supreme Court appoints one member of the judiciary to the council. These three appointees serve a term of four years each. However, for the purpose of staggered terms, of the Governor's initial appointments, five members are appointed to two-year terms and six members to four-year terms.

Vacancies on the council are filled in the same manner as the original appointment, and any member appointed to fill a vacancy because of death, resignation, or ineligibility for membership, serves only for the unexpired term of the member's predecessor. A member is subject to reappointment.

Members of the advisory council and workgroups serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.

The advisory committee meets at least quarterly or upon the call of the chairperson.

The CS provides that the advisory council shall perform the following duties:

- The council conducts a comprehensive analysis of the substance abuse problem in this state and makes recommendations to the Governor and Legislature for developing and implementing the state drug control strategy. The council shall determine the most effective

means of establishing clear and meaningful lines of communication between the council and the public and private sectors, in order to ensure that the process of developing and implementing the state drug control strategy has afforded a broad spectrum of the public and private sectors with the opportunity to comment and make recommendations.

- The council reviews and makes recommendations to the Governor and Legislature on the funding of substance abuse programs and services, consistent with the state drug control strategy, as developed. The council is authorized to recommend the creation of a separate appropriations category for funding services delivered or procured by state agencies and is also authorized to recommend the use of performance-based contracting as provided in s. 414.065, F.S.
- The council reviews substance abuse programs and recommends, where needed, measures that are sufficient to determine program outcomes. The council also reviews methodologies for evaluating programs and determine whether programs within different agencies have common outcomes. The methodologies shall be consistent with those established in s. 216.0166, F.S., which relates to the submission by state agencies of performance-based budget requests, programs, and performance measures.
- The council reviews the drug control strategies and programs of, and efforts by, other states and the Federal Government and compiles the relevant research.
- The council makes recommendations to the Governor and the Legislature on applied research projects that would use research capabilities within the state, including, but not limited to, the resources of the State University System, for the purpose of achieving improved outcomes and making better-informed strategic budgetary decisions.
- The council makes recommendations to the Governor and the Legislature on changes in the law which would remove barriers to or enhance implementation of the state drug control strategy.
- The council makes recommendations to the Governor and the Legislature on the need for public information campaigns to be conducted in the state to limit substance abuse.
- The council ensures that there is a coordinated, integrated and multidisciplinary response to the problem of substance abuse in this state, with special attention to creating partnerships within and between the public and private sectors, and to the coordinated, supportive, and integrated delivery of multiple-system services to substance abusers, including multiagency team approaches to service delivery.
- Finally, the council assists communities and families in pooling their knowledge and experiences regarding substance abuse. Forums for exchanging ideas, experiences, practical information, as well as instruction, should be considered. For communities, such instruction may involve issues of funding, staffing, training, neighborhood and parental involvement, and instruction on other issues. For families, such instruction may involve practical strategies for addressing family substance abuse; improving cognitive, communication, and decision making skills; providing parents with techniques for resolving conflicts, communicating, and

cultivating meaningful relationships with their children, and for establishing guidelines for their children; educating families about drug-free programs and activities in which they can serve as both participants and planners; and other instruction. To maximize the effectiveness of such forums, the CS provides that there should be multiple agency participation.

The CS provides that the chairperson of the council shall appoint work groups that include members of state agencies that are not represented on the council and solicit input and recommendations from those agencies. The chairperson is authorized to appoint work groups as necessary from among the members of the advisory council in order to efficiently address specific issues. A representative of a state agency shall be the head of the agency, or his or her designee. The chairperson may designate lead and contributing agencies within a work group.

The CS also provides that the advisory council shall submit a report to the Governor, the President of Senate, and the Speaker of the House of Representatives by December 1 of each year which contains a summary of the work of the council and the recommendations required by the legislation, as described herein. Interim reports may be submitted at the discretion of the chairperson of the advisory council.

Section 397.801(1), F.S., and Section 397.811(2), F.S., are repealed. The repeal eliminates language authorizing the creation of a Statewide Coordinator for Substance Abuse Impairment Prevention and Treatment, and the duties attached to that office. The planning and coordination duties are among the planning and coordination duties that would be performed by the director of the state drug control office. Consistent with these changes, references are also deleted to the Statewide Coordinator and his planning duties in s. 397.821, F.S., which provides for the establishment of juvenile substance abuse impairment prevention and early intervention.

The CS takes effect upon becoming a law.

The CS embodies the features of the model proposed in the Senate report for a state drug control office and for a statewide advisory council.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Fiscal Policy staff are presently conferring with staff of the Governor's Office of Planning and Budgeting on staffing requirements for the state drug control office and advisory council. Therefore, a fiscal impact analysis of CS/SB 1468 was unavailable at the time this analysis was completed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As previously noted, the Senate report identified the need for greater coordination of substance abuse policy and planning. The report suggested that such coordination would be enhanced by establishing and institutionalizing a new process for coordinating substance abuse policy and planning. There are several important reasons for enhanced policy and planning coordination, which were discussed in the report, and which are presented in the following findings of the Senate report:

- There is currently a very limited legislative mandate for interagency collaboration. While some interagency collaboration does occur today in relation to substance abuse programs and service delivery, it is still quite limited and is largely the product of ad hoc arrangements that facilitate the implementation of the agencies' strategies. This lack of collaboration filters down to the local level.
- A byproduct of this limited collaboration is that each agency has only a cursory knowledge of what other agencies are doing, except where interests may intersect or be joined in particular matters. Today, no agency is able to provide a comprehensive picture of the substance abuse problem in Florida; the federal, state, and local efforts brought to bear upon that problem; and the sources of funding for those efforts. Yet, having this comprehensive picture is especially important in developing strategies to limit substance abuse, because it helps lawmakers make informed and intelligent decisions on funding substance abuse programs and services.
- The full potential of performance measurement may not be realized, because there is limited interagency collaboration for the purpose of determining if the agencies may share some

common outcomes, or for the purpose of encouraging a wider review of performance measures.

- The degree of agency collaboration necessary to develop and successfully implement a comprehensive state drug control strategy may provide for better performance accountability since it encourages development and review of performance measures by a wide spectrum of stakeholders.
- Funding needs for substance abuse programs and services are subsumed within the legislative budget requests of the agencies where they are forced to compete with numerous other programs the agencies request to be funded. In contrast, the program, if measurably effective, would be highlighted and linked to a strategy, perhaps a strategic priority, within a comprehensive state drug control strategy.
- With few exceptions, the current budget process does not foster interagency collaboration in determining funding needs for substance abuse programs and services because agencies are not working as part of a multiagency effort to accomplish an overall strategy. In contrast, to implement a comprehensive state drug control strategy, strategists must look at funding needs for substance abuse programs and services beyond individual agency boundaries.
- Enhanced coordination of substance abuse policy and planning may better position Florida in the hunt for federal funding. The federal government is placing increasing emphasis upon state coordination of policy and planning. Within the highly competitive federal grant application process, the states with the best coordination capabilities are the states that are going to be the most strongly positioned to receive federal grant funds.
- Since a comprehensive drug control strategy is intended to promote “what works,” there is a need to create an institutional environment (hospitable public systems) conducive to sustaining, replicating, and scaling up from effective substance abuse programs. Speaking about social programs in general, but applicable to substance abuse programs, the author Lisbeth Schorr has pointed out that historically, it has been very difficult to sustain, replicate and scale up from effective programs because “the environment in which these programs depend upon for long-term funding, skilled professionals, and public support, is profoundly out of sync with the key attributes of success.” Schorr, Lisbeth. *Common Purpose: Strengthening Families and Neighborhoods to Rebuild America* (Anchor Books: Doubleday, New York, 1997), p. 19 (remainder of quoted material is from pp. 113-114 of this reference).

Schorr discusses several models for “debureaucratization” that are intended to promote an environment more conducive to sustaining, replicating, and scaling up from successful programs. The models share most or all of these features:

- Public officials and administrators recognize “the distinction between the functions that must be standardized from the top down and those whose effectiveness hinges on being responsive to specific individuals, families, and communities”;
- Interagency and intergovernmental collaboration, while it may have been initially fostered by ad hoc arrangements, progresses to more institutionalized arrangements;

- Multiple agencies participate together in helping communities cut red tape;
- Local stakeholders play a pivotal role in planning;
- Funding determinations look beyond budget categories and separate funding streams;
- Leaders cultivate a “shared view of the nature and importance of the organization’s reframed and restructure tasks among front-line professionals who [see] themselves as part of a voluntary community of shared beliefs, values, and norms”;
- Managers are able “to elicit from their staffs a commitment to high-quality performance that [supersedes] pressures to serve their narrow self-interest, and [frees] them to exercise their discretion”;
- “Those who created the bureaucratic changes [are not] left to fend for themselves” but are “able to draw on intermediaries that [offer] clout and expertise -and sometimes extra funds”;
- Performance-accountability is a “two-way conversation in which the state agency partners bring to the table basic categories of results to be achieved, and the benchmarks are set with full input of the community”;
- Program managers have “the time to plan, evolve, and learn from their experience”;
- Local variation is encouraged; and
- The importance of communities and families as agents of change is recognized.

The model for the state drug control office and statewide drug policy advisory council, which is embodied in CS/SB 1468, is a “debureaucratization” model, containing many of the features discussed by Schorr. There is an emphasis in the prescribed duties of the drug control office and advisory council on:

- Developing and implementing a comprehensive, integrated, and multidisciplinary response to the substance abuse problem;
- Affording a broad spectrum of the public and private sectors an opportunity to comment and make recommendations on the development and implementation of the state drug control strategy;
- Making strategic and funding decisions based on a comprehensive strategy, recognizing that the substance abuse problem transcends the jurisdictional boundaries of any single government agency;

- Providing short-term and long-term objectives;
- Creating partnerships within and between the public and private sectors; and
- Coordinating, supporting, and integrating delivery of multiple-system services for substance abusers, including a multiagency team approach to service delivery.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
