

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Children, Families, and Elder Affairs Committee

BILL: SB 2520

INTRODUCER: Senator Dockery

SUBJECT: Forensic Behavioral Health Pilot Project

DATE: April 17, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Jameson	CF	<b>Favorable</b>
2.			CJ	
3.			JU	
4.			HA	
5.				
6.				

## I. Summary:

Senate Bill 2520 creates the Behavioral Health Community Solutions Pilot Program (Pilot) in Polk County and in the Tenth Judicial Circuit, and creates the Behavioral Health Forensic Project for the Tenth Judicial Circuit (Project). The bill requires the expansion of the crisis response team, the creation of three forensic teams, the expansion of the mental health court, the conversion of an existing facility into a step-down residential facility and the creation of a central receiving facility.

This bill creates undesignated sections of the Florida Statutes.

## II. Present Situation:

### Forensic Mental Health Generally

Persons with serious mental illnesses present unique challenges for the criminal justice system. According to experts in both the corrections and mental health fields, persons with mental illnesses are disproportionately represented in the criminal justice system. Data from the U.S. Department of Justice (DOJ) and the Florida Department of Corrections (DOC) confirms this conclusion. Although data indicates that approximately six percent of the general population in the United States have a serious mental illness,<sup>1</sup> this prevalence increases to 16 percent for inmates in U.S. jails.<sup>2, 3</sup> The Florida DOC estimates that the average daily population of Florida

<sup>1</sup> Kessler, R.C., Chiu, W.T., Demler, O., Walters, E.E. Prevalence, severity, and comorbidity of twelve-month DSM-IV disorders in the National Comorbidity Survey Replication (NCS-R). Archives of General Psychiatry, 2005 June; 62(6):617-27.

<sup>2</sup> Ditton, P.M., Mental Health Treatment of Inmates and Probationers, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, July 1999.

jails in 2005 was 57,559.<sup>4</sup> Using the DOC jail population estimate and a 16 percent prevalence rate, approximately 9,200 individuals held in Florida jails at any given time have a serious mental illness. In addition to the large number of jail inmates with mental illnesses, the number of inmates classified as “S3” (the DOC mental health classification denoting moderate impairment in adaptive functioning) in the state’s prisons has increased from approximately 2,000 in 1990 to nearly 12,000 in 2006.<sup>5</sup>

Identification and treatment of persons with serious mental illness who are involved in the criminal justice system has become a subject of intense scrutiny in Florida and across the country. The situation has reached crisis proportions amid the growing perception that jails and prisons are now “the new asylums.”<sup>6</sup> The cost of this problem to communities for law enforcement, jails, and human services is enormous. The Miami-Dade Department of Corrections estimates that it spends almost \$4 million annually for overtime pay to manage inmates with mental illness.<sup>7</sup> The Orange County jail reports that the average inmate identified as having a mental illness stays 51 days, compared with an average stay of 26 days for inmates.<sup>8</sup>

Compounding the problem of mental illness is the problem of co-occurring substance use disorders. Of the approximately 800,000 persons with serious mental illness who are admitted to U.S. jails annually, 72 percent also meet criteria for co-occurring substance use disorders.<sup>9</sup> In Florida, the Department of Corrections estimates that 64 percent of the total inmate prison population is identified as being in need of substance abuse treatment.<sup>10</sup> Of those, 17 percent have a co-occurring mental illness needing treatment.<sup>11</sup>

According to the Department of Children and Families (DCF), many individuals with mental illnesses and co-occurring substance abuse disorders become involved with the criminal justice system because they lack access to appropriate therapeutic services and medications. As a result, they become repeat offenders and are required to serve time in prison. In addition, many individuals with chronic mental illnesses are referred to state mental health treatment facilities due to a lack of local coordination of resources to address their needs. Many of these individuals can more appropriately and more cost-effectively receive community-based services to meet their needs.<sup>12</sup>

### **Forensic Mental Health in the Tenth Judicial Circuit**

The Tenth Judicial Circuit (as well as DCF’s District 14) includes Polk, Hardee and Highlands counties. The Peace River Center (PRC) is a private, not-for-profit, community mental health

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<sup>3</sup> A recent report from the Department of Justice suggests that as many as 30 percent of jail inmates have symptoms of a major depressive or psychotic disorder. (see James, D.J., Glaze, L.E., Mental Health Problems of Prison and Jail Inmates, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Sept. 2006).

<sup>4</sup> Department of Corrections, County Detention Facilities (2005 Annual Report).

<sup>5</sup> McDonough, J., Presentation to Florida Substance Abuse and Mental Health Corporation, June 8, 2006.

<sup>6</sup> Navasky, M., O’ Connor, K., “FRONTLINE: The New Asylums” originally broadcast on May 10, 2005, WGBH Educational Foundation, Boston, MA.

<sup>7</sup> Criminal Justice / Mental Health Consensus Project [www.consensusproject.org](http://www.consensusproject.org).

<sup>8</sup> Ibid.

<sup>9</sup> <http://www.gainscenter.samhsa.gov/html/tapa/jail%20diversion/background.asp> (last visited March 13, 2007).

<sup>10</sup> [http://www.dc.state.fl.us/pub/annual/0506/ci\\_drugsprogs.html](http://www.dc.state.fl.us/pub/annual/0506/ci_drugsprogs.html) (last visited March 14, 2007).

<sup>11</sup> Id.

<sup>12</sup> Department of Children and Families Staff Analysis and Economic Impact, SB 542 (January 31, 2007).

organization providing Polk, Hardee and Highlands counties with mental and behavioral health care services. DCF contracts with the PRC to provide a crisis response team (CRT) in Polk County only. The team serves approximately 4,500 people annually.<sup>13</sup>

DCF also contracts with the PRC for two forensic specialist positions, two competency restoration trainer/specialists and one conditional release case manager. These individuals serve Polk, Hardee and Highlands counties.<sup>14</sup>

The mental health court in the area is at the circuit court level and hears only cases of forensic individuals returning from a state mental health treatment facility. One judge hears all of the cases, and docket time is set aside regularly to hear them. Misdemeanor cases are not heard in the mental health court, although it is estimated that the circuit hears from 400 to 500 misdemeanor cases annually involving individuals with a mental illness or co-occurring issues. The district currently has no forensic residential capacity.<sup>15</sup>

### **III. Effect of Proposed Changes:**

The bill creates the Behavioral Health Community Solutions Pilot Program (Pilot) in Polk County and in the Tenth Judicial Circuit, for the purpose of identifying and addressing gaps in services with respect to behavioral health and the criminal justice system.<sup>16</sup> The bill provides that the Pilot is a cooperative effort between the Polk County Sheriff's Office and the Peace River Center (PRC).

The bill creates the Behavioral Health Forensic Project for the Tenth Judicial Circuit (Project), for the purpose of diverting individuals from the criminal justice system to community-based services.

The bill requires that the following changes be implemented as part of the Project:

- Expansion of the CRT by 20 members, allowing the team to work collaboratively with the sheriff's departments. The bill provides that the team is to provide 24-hour support to help prevent arrest by:
  - Assisting law enforcement in the field with calls involving behavioral health issues;
  - Assisting law enforcement with the assessment of mental health and substance abuse issues and accessing immediate resources;
  - Supporting law enforcement by providing follow-up contact, communication and monitoring.

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<sup>13</sup> Department of Children and Families Staff Analysis and Economic Impact, SB 2520 (March 13, 2007).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Subsection (1) of Section 1 of the bill creates the Behavioral Health Community Solutions Pilot Program in Polk County. Subsection (3) of Section 1 of the bill creates the Behavioral Health Community Solutions Pilot Program in the Tenth Judicial Circuit. Subsection (1) of Section 2 of the bill creates the Behavioral Health Forensic Project for the Tenth Judicial Circuit. It is unclear why the Behavioral Health Community Solutions Pilot Program in the Tenth Judicial Circuit is created in Subsection (3) of Section 1 of the bill.

- Creation of three forensic teams, each made up of seven members (six who are “qualified” in mental health or co-occurring services and trained in forensic evaluations, and one who has “training and experience” in the criminal justice system). The bill requires that the forensic teams are to be located in “community behavioral health offices” close to the judicial or correctional facilities in each of the three counties. The bill states that the purpose of the teams is to reduce the amount of time people with mental illness and co-occurring substance abuse spend in the criminal justice system.
- Expansion of the mental health court to provide for “specific recognition” of judicial cases (especially misdemeanor cases) that are complicated by behavioral issues, with case management provided by the forensic teams. The bill provides that the goal of the “attention to the mental health cases” is to reduce the amount of time people with behavioral health issues spend in the criminal justice system.
- Conversion of an existing facility owned by PRC into an eight-bed, unlocked, step-down residential facility for individuals released from state forensic facilities. The bill states that funds shall be allocated to provide food, shelter, activity, and increased supervision for the facility and that the purpose of the facility is to increase the number of individuals who are discharged from state forensic hospitals.
- Conversion of an existing facility (to be provided by PRC) into a central receiving facility where individuals will be assessed and either transferred to a stabilization or detoxification facility or referred to outpatient community resources. The bill directs that the receiving facility shall be similar to the Orange County Central Receiving Facility and located in the area with the highest volume of Baker Act cases. The bill provides that a “collaborative group” shall be responsible for developing a system of transportation.

The bill provides an effective date of July 1, 2007.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

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

None.

**B. Private Sector Impact:**

To the extent private citizens with mental health and substance abuse issues are appropriately diverted from the criminal justice system, they would benefit from this bill.

**C. Government Sector Impact:**

The bill requires the hiring of twenty additional CRT members. According to DCF, the annual cost for the contracting of twenty additional CRT positions is **\$1,174,020** (salary and benefits at \$58,701 x 20 positions).

DCF also estimates that the CRT positions would require start up costs of **\$92,580** (\$3,329 in non-recurring expense (medium travel) x 20 positions for \$66,580 and \$1,300 non-recurring OCO x 20 positions for \$26,000).

The bill requires the creation of three forensic teams, each with seven members. According to DCF, the annual cost for the contracting of 21 forensic team members is **\$945,252** (salary and benefits at \$45,012 x 21 positions).

DCF also estimates that the forensic team positions would require start up costs of **\$97,209** (\$3,329 in non-recurring expense (medium travel) x 21 positions for \$69,904 and \$1,300 non-recurring OCO x 21 positions for \$27,300).

The bill requires the conversion of an existing facility into an eight-bed, step-down residential facility for individuals returning to the community following release from a state forensic mental health treatment facility. According to DCF, the facility to be converted currently receives a daily bed rate of \$78.52. In order to provide 24-hour supervision, this daily rate will increase to \$108.00 per bed, or an additional \$29.48 per bed per day. The annual increased cost will be **\$86,081.60** (\$29.48 x 8 beds x 365 days).

The bill requires the conversion of an unidentified facility into a central receiving facility for Baker Act/Marchman Act referrals. According to DCF, an appropriate facility would need to be located and terms negotiated, making the fiscal impact of this part of the bill indeterminate, but likely substantial. The added cost of transporting individuals to a central location will have an indeterminate impact as well.

According to DCF, the total appropriations consequences of this bill for FY 07-08 would be at least **\$3,043,476** and for FY 08-09 would be at least **\$2,853,687**.<sup>17</sup>

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<sup>17</sup> Department of Children and Families Staff Analysis and Economic Impact, SB 2520 (March 13, 2007).

To the extent the bill would result in the diversion of individuals from the criminal justice system, there would be savings to county government.

## **VI. Technical Deficiencies:**

Subsection (1) of Section 1 of the bill creates the Behavioral Health Community Solutions Pilot Program in Polk County. Subsection (3) of Section 1 of the bill creates the Behavioral Health Community Solutions Pilot Program in the Tenth Judicial Circuit. Subsection (1) of Section 2 of the bill creates the Behavioral Health Forensic Project for the Tenth Judicial Circuit. It is unclear why the Behavioral Health Community Solutions Pilot Program in the Tenth Judicial Circuit is created in Subsection (3) of Section 1 of the bill.

The bill does not define “behavioral health.”

On page 2, line 7, the bill calls for the expansion of the CRT, but the CRT to be expanded is not identified. DCF has a contract with PRC for a CRT in Polk County only. It is unclear from the bill whether the intent is to expand that team or to implement some other expansion.

On page 2, line 11, the bill references “sheriff department’s substations” but does not specify the location(s) of the substations. It is unclear if the reference is to all substations in each county, or to some number of substations in each county.

On page 2, line 30 through page 3, line 2, the bill provides that the forensic team is to be comprised of 6 members who are “qualified” in mental health or co-occurring services and trained in forensic evaluations, and one who has “training and experience in the criminal justice system.” The bill does not provide definitions, making it unclear who would qualify for membership on these teams, or who would be responsible for appointing the membership.

On page 3, lines 5-6, the bill does not define “community behavioral health offices” making it unclear where the forensic teams are to be housed.

On page 3, lines 8-11, the bill states that the purpose of the teams is to reduce the amount of time people with mental illness and co-occurring substance abuse spend in the criminal justice system, but it does not provide any direction as to how this goal will be accomplished.

On page 3, line 15, the bill requires that the Tenth Judicial Circuit be “expanded” to provide for “specific recognition” of certain judicial cases. The bill lacks clarity as to what this requires a court or courts to do with respect to these cases.

On page 4, line 2, the word “that” should be replaced with “who.”

On page 4, lines 2-4, the bill lacks clarity as to whether the purpose of the step-down facilities is to increase the number of individuals discharged from state hospitals overall or to increase the number of individuals discharged into communities that lack appropriate housing.

On page 4, line 19, the bill provides that a “collaborative group” shall be responsible for developing a system of transportation. Without definition, it is unclear what entities will be required to participate or what a system of transportation means.

**VII. Related Issues:**

According to DCF, it would be appropriate to include as members of the cooperative effort to implement the Pilot other stakeholders, including representatives from the Tenth Judicial Circuit and DCF, and consumers.

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

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## **VIII. Summary of Amendments:**

None.

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