



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** --- This bill entitles private facilities to be reimbursed by DCF for the facilities' examination and treatment of mental health patients pursuant to Florida's Baker Act. The bill establishes data reporting requirements for licensed crisis stabilization units and licensed mental health residential treatment facilities. In addition, the bill requires AHCA to make certain mental health care provider data available to consumers and to publish the collected data in an annual report.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

Florida's Baker Act<sup>1</sup> requires that people who, because of mental illness, appear to a law enforcement officer to be a danger to themselves or others, be taken to the nearest receiving facility for emergency evaluation and/or treatment. Individuals may also present themselves voluntarily for evaluation or treatment. Many of those who are taken for or seek mental health treatment under the Baker Act are indigent or uninsured.

Persons in crisis may be transported to a community hospital, many of which are designated as Baker Act receiving facilities and operate psychiatric beds, where they remain until space is available in a state contracted crisis stabilization unit (CSU). Others may voluntarily seek crisis intervention at a designated community hospital, and certain federal statutes require that they will be initially admitted for stabilization, rather than immediately transported to another facility. For these reasons, community hospitals have provided a considerable amount of uncompensated care for people who have no insurance or personal funds to pay for treatment. Because the number of licensed psychiatric hospital beds in Florida has decreased substantially over the past ten years, those hospitals which continue to maintain these beds bear an ever higher financial burden for uncompensated care.

In Fiscal Year 2006-2007, DCF received a fixed annual appropriation for Baker Act services of \$78,627,156.<sup>2</sup> These funds are primarily contracted to licensed CSU operated by private not for profit community mental health providers. The department contracts with these entities for crisis services for low income individuals needing mental health care.

The number of psychiatric beds needed to meet statewide need, based on Florida's adult population, is 1,377. Current DCF- and Medicaid-funded beds total 1,115, resulting in an unmet need for 262 additional beds.<sup>3</sup>

DCF is already authorized to pay for Baker Act services in hospitals. However, the average payment to a CSU is \$291 per day, inclusive of physician charges, while hospitals have an average Florida Medicaid cost based rate of \$1,390 per day, exclusive of physician charges.<sup>4</sup> Thus, with a fixed appropriation, fewer people can be served in hospitals than in CSU.

##### **Effect of Proposed Legislation**

HB 587 amends s. 394.461, F.S., to entitle private facilities receiving and treating voluntary and involuntary patients under the Baker Act to reimbursement by DCF for provision of those services. It

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<sup>1</sup> Section 394.451, F.S., *et seq.*; also known as the Florida Mental Health Act.

<sup>2</sup> Specific Appropriations 384 and 393, 2006 General Appropriations Act.

<sup>3</sup> Source: DCF Division of Mental Health.

<sup>4</sup> *Ibid.*

requires licensed facilities to report financial and health service data to DCF pursuant to s. 408.061, F.S.

The bill includes CSU and mental health residential facilities among those entities required to report health care and financial data to AHCA.

HB 587 specifies the data which must be submitted by a provider licensed under s. 394.875, F.S., to include:

- Admission data
- Patient referral source
- Discharge data
- Average patient length of stay by payer class
- Total patient days & total patient admissions by payer class
- The primary & secondary diagnosis of each patient
- The number of licensed beds in the facility
- The number of contracted beds in a public facility (defined in s. 394.455(25), F.S.)
- Total revenues by payer class, defined to include, without limitation, Medicare, Medicare HMO, Medicaid, Medicaid HMO, private-pay insurance, private health care maintenance organization, private preferred provider organization, services contracted by the Department of Children and Family Services, self-pay, charity, and other government programs
- Operating expenses

It mandates quarterly electronic data submission to AHCA, with certification of its truth and accuracy. ACHA is required to publish an annual report of collected data.

The bill reenacts the Financial Information and Disclosure requirements of the Patients Bill of Rights to incorporate the amendment to s. 408.05, F.S., made by this act.

The effective date of the act is July 1, 2007.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 394.461, F.S.; entitles certain private facilities to reimbursement by DCF; requires the facilities to report certain information to DCF.

Section 2. Amends s. 408.05(3)(k), F.S.; requires CSU and mental health residential facilities to report certain data to AHCA.

Section 3. Amends s. 408.061(1) F.S.; specifies data reporting requirements.

Section 4. Reenacts s. 381.026(4)(c), F.S., to incorporate the amendment to s. 408.05, F.S., made by this act.

Section 5. Provides an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT: The following fiscal information is derived from information provided by the affected agencies detailed in "Fiscal Comments" in Part II.D. below.

	Amount Year 1 (FY 2007-2008)	Amount Year 2 (FY 2008-2009)
1. Non-recurring or First-Year Start-Up Effects:	\$0	\$0
2. Recurring or Annualized Continuation Effects:		
Services	\$117,060,360	\$117,060,360
OPS	\$ 352,500	\$ 320,000
Expense	\$ 97,764	\$ 71,790
3. Long-Run Effects Other Than Normal Growth:		
4. Appropriations Consequences	<b>\$ 117,510,624</b>	<b>\$ 117,452,151</b>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS: Pursuant to s. 394.76(3)(b), F.S., counties are required to provide **\$39,020,120** in local match annually.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Private sector hospitals would receive most all of the \$156,080,480 that would be needed to implement this bill.

D. FISCAL COMMENTS:

### Fiscal Impact on DCF related to Reimbursement for Provision of Mental Health Services

The impact on services estimated above was calculated by DCF using the following information and assumptions. There are 2,268 adult and 299 children's psychiatric beds in hospitals that are designated private Baker Act receiving facilities. There are 640 adult and 100 children's psychiatric beds in hospitals that are designated public Baker Act receiving facilities. Public receiving facilities are hospitals (and crisis stabilization units) that receive *some* fixed funding (usually for a small portion of a hospital's bed capacity) from DCF through the current Baker Act appropriation. Private receiving facilities do not receive this funding and are not obligated to accept people referred by the department.

There are 2,567 Baker Act private receiving facility beds in hospitals in Florida. The average occupancy rate for these facilities is 65 percent. The uninsurance rate in Florida, *i.e.*, people without Medicaid, Medicare, or other third party payer, is 19.1 percent of the population, with approximately 9 in 10 of these uninsured individuals having incomes under 250 percent of the Federal Poverty Level (FPL), or 17.2 percent of the population. Medicaid pays an average of \$1,390 per day for a hospital bed. Additionally, physician charges estimated at about \$100 per day might be expected for medical coverage, for a total of \$1,490 per patient day. If the department were liable for psychiatric hospital days in private hospital based receiving facilities for uninsured people under 250 percent FPL, the potential cost would be as follows:

There are 2,268 private receiving facility beds in hospitals for adults and 299 for children, totaling 2,567 private facility beds.  $2,567 \times 365 = 936,955$  patient days at 100 percent occupancy  $\times$  65 percent average occupancy = 609,021 patient days  $\times$  17.2 percent uninsurance rate  $<$  250 percent FPL =

104,752 low income uninsured bed days x \$1,490 per day = \$156,080,480 impact for current private receiving facilities only. This would require \$117,060,360 in state funds and \$39,020,120 local (county) match.

#### Fiscal Impact related to DCF Contract Management Capacity

DCF estimates that its district offices would require six OPS positions, each managing 15 contracts, at \$45,000 annually to manage contracts with the approximately 92 hospitals with licensed psychiatric beds. (The facilities would be reimbursed for the mental health services provided by contract with DCF.)

##### Fiscal Year 2007-2008

6 X \$33,750 = \$202,500 OPS (9 months)  
6 X \$16,294 = \$ 97,764 Expense (includes computer)

##### Fiscal Year 2008-2009

6 X \$45,000 = \$270,000 OPS (12 months)  
6 X \$11,965 = \$ 71,790 Expense (recurring)

#### Fiscal Impact related to AHCA Rulemaking and Data Collection and Analysis

Fiscal impact on AHCA encompasses technical and material support for the initial development, rule development and implementation, ongoing data collection, data processing, data analysis and reporting of the new data set.

AHCA estimates that it would collect patient level data from approximately 200 mental health facilities licensed under s. 394.875, F.S., each quarter. This requires the collection and reporting of a new data set by facilities not previously engaged in electronic data report submissions to AHCA, specifically to the Florida Center.

The total expenditures for implementation of the provisions of this bill will be paid from contracted services and funded 100 percent from the General Revenue Fund.

Fiscal Year 2007-2008: \$150,000

Fiscal Year 2008-2009: \$ 50,000

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### 1. Applicability of Municipality/County Mandates Provision:

This bill requires counties in the aggregate to expend \$39,020,120 in matching funds. The bill does not state that the law fulfills an important state interest. Assuming it is amended to make this finding, the bill must pass by a 2/3 vote of the membership in each house of the Legislature.

##### 2. Other:

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 47-49: The amendment to s. 394.461, F.S., requires that data required pursuant to s. 408.061, F.S., be reported to DCF. However, s. 408.061, F.S., relates to data collection and the uniform system of financial reporting required of providers by AHCA.

D. STATEMENT OF THE SPONSOR

The fiscal issues raised by committee staff is being addressed in the strike-all amendment.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 20, 2007, the Health Innovation Committee adopted a strike-all amendment. The amendment:

- Removed the fiscal impact in the original bill.
- Provided specific reporting requirements of public receiving and treatment facilities by the Department of Children and Families and coordinated data collection with the Agency for Health Care Administration.

The bill was reported favorably with one amendment.