

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires community residential homes to provide 24 hour security.

Promote personal responsibility – The operators of the residential group homes may pass the cost of providing the security required by the bill on to the residents of those homes.

Maintain public security – The bill requires community residential homes to provide 24 hour security in order to protect the residents of those homes as well as members of the community.

B. EFFECT OF PROPOSED CHANGES:

Background

Historically, living placement options for the physically disabled, handicapped, developmentally disabled, mentally ill, and children were primarily state institutions or nursing homes. However, in the 1980s the Florida Legislature began to develop a policy of community integration as an effective alternative. Community integration has not always been an easy transition, but progress has been made in alleviating discriminatory policies against the mentally ill, elderly, handicapped and children in need of continuous care. These changes can largely be attributed to the development of federal law that focused on these protected classes of individuals.

In 1989, the Florida Legislature established the framework for what is currently section 419.001, Florida Statutes.¹ Chapter 419, Florida Statutes, has historically served as the basis for the development of what is commonly referred to as “group homes” or “halfway houses” for adults and children leaving an institutional setting and returning to their home communities. Residents of these homes may represent all age and disability groups. The goal was to follow a deinstitutionalization model for placement of persons with special needs in the least restrictive setting and for the encouragement of placement of such individuals in community residential facilities. The state has a significant interest in the development of community residential homes because these homes provide a living environment for many different types of people.

For purposes of chapter 419, Florida Statutes:

A “community residential home” is defined as a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or a dwelling unit licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.²

A “resident” is defined as any of the following: a frail elder as defined in s. 429.65; a physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person as defined in s. 393.063; a nondangerous mentally ill person as defined in s. 394.455(18); or a child who is found to be dependent or a child in need of services as defined in s. 39.01(14), s. 984.03(9) or (12), or s. 985.03.^{3,4}

¹ See Chapter 89-372, Laws of Florida.

² See s. 419.001(a), Florida Statutes.

³ See s. 419.001(d), Florida Statutes.

For purposes of ss. 943.045-943.08, Florida Statutes:

A "criminal justice agency" is defined as a court, the Department of Law Enforcement, the Department of Juvenile Justice, the protective investigations component of the Department of Children and Family Services, which investigates the crimes of abuse and neglect, and any other governmental agency or subunit thereof which performs the administration of criminal justice pursuant to a statute or rule of court and which allocates a substantial part of its annual budget to the administration of criminal justice.⁵

Currently, community residential homes are not required to have 24-hour security.

The Bill

The bill requires that a community residential home that serves residents who are referred by a criminal justice agency, as defined in s. 943.045(10), Florida Statutes, must provide 24-hour security at that location in order to protect the health, safety, and welfare of the other residents and of the citizens in the surrounding community.

C. SECTION DIRECTORY:

Section 1. Amends s. 419.001, Florida Statutes, relating to site selection of community residential homes.

Section 2. Provides for an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁴ "Frail elder" pursuant to section 400.618, Florida Statutes, includes a functionally impaired person who is over the age of 60 who has physical and mental limitations that restricts the ability of that person to live independently and perform normal activities of daily living; "Physically disabled or handicapped person" pursuant to section 760.22(7)(a), Florida Statutes, includes a person who has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment; "Developmentally disabled person" pursuant to section 393.063, Florida Statutes, includes a person with a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely; Nondangerous "mentally ill person" pursuant to section 394.455(18), Florida Statutes, includes an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with a person's ability to meet the ordinary demands of living, regardless of etiology. The term does not include retardation or developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment; "Child" who is found to be dependent by the court pursuant to section 39.01(14), Florida Statutes, and a "child" in need of services pursuant to sections 984.03(9) and 985.03(8), Florida Statutes.

⁵ See s. 943.045(10), Florida Statutes.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

APD reports that all community residential homes who currently or will serve residents referred by criminal justice agencies will incur higher costs in order to implement the provisions of this bill. It is likely that vendors will either pass these costs to the funding agencies or refuse to serve the client population.

DCF also reports that owners or sponsors might decide to prohibit the community residential home from accepting individuals referred from a criminal justice agency. People with low incomes are already 'priced out' of Florida's housing market, and sex offenders have further statutory or zoning limitations on where they can live. A decision that forensic referrals will not be accommodated would severely reduce available housing stock. Individuals in a re-entry process from the criminal justice system will find it almost impossible to obtain housing.

D. FISCAL COMMENTS:

AHCA reports that it is not known to them how many facilities have residents referred by a criminal justice agency. The agency also reports that the bill could increase costs for those homes that serve criminal justice clients significantly and as a result restrict the ability to find residential placements for these clients.

APD reports a "lower end" and a "higher end" fiscal impact:

- For a video surveillance system which is a one time expenditure for the business that would likely be depreciated by the business and be recouped in the form of a monthly increase per resident over a five year life of the system, the monthly cost per resident is estimated to be \$17.00.
- For a uniformed security guard on duty 24 hours for 365 days per year, the annual impact would range from \$116,813 to \$135,486 depending on whether the guard is armed or unarmed. For a six bed home the average cost of meeting this standard would result in \$10,512, or \$1,752 per resident per month. APD reports that it is not known how many facilities would comply with these security requirements or opt out of serving this target population.
- If large numbers of facilities choose the opt out, there will be a large but indeterminate cost to the state to meet the statutory requirement to serve these clients in the absence of these community facilities.

DCF reports that, depending upon the definition of "provide 24-hour security", community residential homes might comply with the intent of this bill through the purchase of a security gate, the installation of a surveillance camera system, or the use of a security guard. The costs of complying with this bill will likely be passed through to agencies sponsoring the residents, in the form of higher per diem rates. DCF provided the following cost estimates:

A. Non-recurring or First-Year	FY 2008-2009	FY 2009-2010
Start-Up Effects:		
(1) Double folding gate	\$ 14,489	\$ -0-
(2) \$-Camera Digital System	\$ 53,650	\$ -0-
(3) Security Guard Presence	\$831,314	\$ -0-
 B. Recurring or Annualized		
Continuation Effects:		
(1) Double folding gate	\$ -0-	\$ -0-
(2) 4-Camera Digital System	\$ -0-	\$ -0-
(3) Security Guard Presence	\$6,790,698	\$6,790,698
 C. Appropriations Consequences		
(1) Double folding gate	\$ 14,489	
(2) 4-Camera Digital System	\$ 53,650	
(3) Security Guard Presence	\$ 7,622,012	\$6,790,698

DCF's analysis on this bill includes comments that indicate the fiscal impact would be to require owners and sponsors of community residential homes to provide security and that the costs of compliance will likely be passed through to agencies sponsoring the residents, in the form of higher per diem rates.

Also, it is unclear about where and what kind of security will be necessary to "protect the health, safety, and welfare of the other residents and of the citizens in the surrounding community". While the estimate is based on all 58 homes known to DCF to meet the definition in the bill, will security be necessary in all of them.?

DCF estimates the cost of each security gate to be \$249.81 that will lock with a standard padlock. It could be questionable as to how effective this would be to keep these residents from being able to have access to the surrounding community. This also is assuming that the facilities are already fenced. It is also unclear how effective surveillance cameras would be against incidents occurring within the home without the added presence of an on site security guard.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS

The term, "security" on line 39 of the bill is not defined. It is unclear what measures community residential homes would have to take in order to comply with the requirements of the bill.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES