

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7085 PCB HCC 08-26 Mental Health and Substance Abuse
SPONSOR(S): Healthcare Council; Galvano
TIED BILLS: **IDEN./SIM. BILLS:** SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
<u>Orig. Comm.: Healthcare Council</u>	<u>16 Y, 0 N</u>	<u>Schoolfield/ Massengale</u>	<u>Gormley</u>
<u>1) Policy & Budget Council</u>	<u>31 Y, 0 N</u>	<u>Leznoff</u>	<u>Hansen</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill creates s. 394.9086, F.S. which is the Community Mental Health and Substance Abuse Treatment Crime Reduction Act. This act directs the Department of Children and Families (DCF) in consultation with the Agency for Health Care Administration (AHCA) to create a community mental health and substance abuse forensic treatment system to divert people from state forensic hospitals and jails who are appropriate to receive competency restoration training in the community at much less cost than in state facilities. This system will also treat persons discharged from forensic hospitals to help them avoid re-entry to the criminal justice system. The forensic system will also serve people who have frequent contact with the criminal justice system and are at risk of involuntary commitment.

This bill also:

- Expands the background screening requirement for mental health personnel of public and private agencies to require level 2 background screening to include people working with all ages, not just children.
- Eliminates a contract requirement with DCF in order for a private agency to receive a license from the Agency for health Care Administration (AHCA) as a residential treatment center for children and adolescents.
- Establishes priority populations for mental health and substance abuse services that are consistent with current practice.
- Amends Chapter 394, F.S., to give DCF authority to create an integrated adult mental health crisis stabilization and addictions receiving facility which will be licensed by AHCA.
- Amends s. 553.80, F.S., which allows DCF the authority to enforce building codes at their secure forensic mental health treatment facilities.
- Amends Chapter 916, F.S., to require an annual offering of forensic evaluator training and to require evaluators to complete training every 5 years to remain on the forensic evaluator registry.
- Requires prisoners to remain in the custody of the Department of Corrections (DOC) for competency restoration training.
- Requires courts to hold a competency hearing for a person within 30 days of receiving a competency report from DCF.
- Requires the Sheriff to transport the person from the state hospital to the jail within 15 days of the court receiving the competency report.

\$ 8 million of nonrecurring General Revenue is provided in the proposed General Appropriations Act to fund the provisions of the bill relating to the Community Mental Health and Substance Abuse Treatment Crime Reduction Act. There may be an impact to local government. This impact has not been determined. The effective date is July 1, 2008.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7085a.PBC.doc
DATE: 4/10/2008

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill provides for competency restoration services to be provided by private providers in the community instead of state forensic hospitals. The court will determine when it is appropriate and safe to provide services to individuals in the community setting. The bill also strengthens state partnerships with county planning councils to address mental health related criminal justice issues.

Empower Families: The bill empowers individuals and families by requiring all mental health personnel of public and private agencies to receive level 2 background screening.

B. EFFECT OF PROPOSED CHANGES:

Background

The publicly funded substance abuse and mental health services in Florida are primarily provided through the Department of Children and Family Services. The 2003 Legislature established separate substance abuse and mental health program offices within Department of Children and Family Services under the Assistant Secretary for Substance Abuse and Mental Health. The services from these programs are provided statewide through a district structure¹. The Mental Health Treatment Facilities (institutions) report to the Assistant Secretary for Substance Abuse and Mental Health at headquarters.

The Substance Abuse and Mental Health Program Offices are responsible for the planning and administration of publicly funded mental health and substance abuse services. These programs also serve as the primary contact to the federal Department of Health and Human Services for all issues pertaining to substance abuse and mental health. Most of the services for these programs are provided through contracts implemented at the circuit level with community substance abuse and mental provider organizations and professionals. In addition, the state mental health treatment facilities provide mental health and some substance abuse services directly to clients.

Substance Abuse Program

Chapter 394 and 397 of the Florida Statutes provide authority for the provision of substance abuse services to children and adults. Alcohol addiction (34%) accounts for the highest percent of treatment admissions for adults to the substance abuse program followed by cocaine/crack (27%) and marijuana (21%). Marijuana accounts for the highest percentage of adolescent admissions (76%) followed by alcohol (16%). In recent years there has been an upsurge in prescription drug misuse and abuse and the use of methamphetamines.²

Substance abuse services fall in three categories including prevention, treatment and detoxification services. Prevention services are designed to address risk factors which are known to contribute to substance abuse. Services to children may be provided in schools and include parents. The services to adults are targeted to the workplace, parents, pregnant women and other high risk groups. Treatment services include residential programs, outpatient treatment and recovery support services. Detoxification services are designed to eliminate substance use. These services use medical and clinical procedures to assist children and adults to withdraw from the physical and psychological affects of substance abuse. In addition, the program is responsible for licensure and regulation of the substance abuse provider system. The licensure process which includes setting standards is

¹ Recently aligned as 6 Regions and 20 judicial circuits

² Substance Abuse and Mental Health Services Plan: 2007-2010, January 2007.

delineated in chapter 397, F.S., and Chapter 65D-30, Florida Administrative Code. A range of programs and facilities are licensed including but not limited to; addiction receiving facilities, detoxification, intensive inpatient treatment, residential treatment, day or night treatment, outpatient treatment, medication and methadone treatment programs.

Mental Health Program

The mental health program is comprised of a system of care for persons with mental illnesses in accordance with Chapters 394 and 916, Florida Statutes. The program includes mental health services to adults and children as well as oversight of the state mental health treatment facilities and the sexually violent predator program. The system of care for individuals with mental illness or co-occurring substance abuse and mental illnesses is organized as follows:

Adult Community Mental Health: includes outpatient care (typically at community mental health centers) and residential care such as crisis stabilization units, limited license alternative treatment facilities and short term residential treatment units.

Children's Community Mental Health: includes outpatient care and residential care, such as in therapeutic group homes and the inpatient psychiatric programs. The children's mental health program also manages and coordinates contracts for the Juveniles Incompetent to Proceed Program for children who have been committed by the courts to the department for competency restoration services.

Civil and Forensic State Mental Health Treatment Facilities: The mental health program operates or oversees services provided through 7 facilities for adults who have been committed to the department by the courts. Three of the seven facilities are managed by the mental health program while the other 4 facilities operate under department contracts with private companies. The facilities provide treatment and services to three distinct populations.

- The civil population receives services at a level of care which is not available in the community.
- The forensic services population includes individuals who are not guilty by reason of insanity or incompetent to proceed.
- The sexually violent predator population program serves people who are committed under the Jimmy Ryce Act as sexually violent predators.

Behavioral Health Managed Care

For most people in Florida who are Medicaid eligible, almost all their mental health services are purchased through capitated Medicaid contracts between the Florida Agency for Health Care Administration and Health Maintenance Organizations (for their enrollees), or by contracts with Prepaid Mental Health Plans for Medipass (Medicaid's Primary Care Physician Case Manager Program) recipients. Some eligibility groups, such as those with both Medicare and Medicaid eligibility, continue to have their Medicaid mental health services provided through a fee-for-service system by providers that are enrolled with the Medicaid program. Children in the child welfare system³ receive mental health care through a specialty prepaid mental health plan jointly operated by Community-Based Care organizations and Magellan, a commercial managed care company. Medicaid substance abuse services are not capitated to managed care plans and are paid on a fee-for-service basis. In Medicaid Reform areas Medicaid mental health services are provided through Health Maintenance Organizations or Provider Services Networks. Prepaid mental health plans are not used in these areas.

Unlike Medicaid, mental health and substance abuse services provided though the department are not an entitlement. Subject to availability of funds, the department pays for services for Medicaid beneficiaries that are not compensable under Medicaid, such as supported employment or residential

³ enrolled in the department's Home Safe Net data system

care. People who are not Medicaid eligible and otherwise qualified receive the full range of mental health and substance abuse services provided by the department. Since a very large number of Department of Children and Families mental health and substance abuse contractors are also contract providers for Health Maintenance Organizations or Prepaid Mental Health Plans these organizations are able to coordinate funding streams for Medicaid beneficiaries.⁴

Forensic Mental Health

Under the authority of Chapter 916, Florida Statutes, the Department of Children and Families provides mental health assessment, evaluation, and treatment of individuals committed to the department following adjudication as incompetent to proceed during a criminal proceeding or not guilty by reason of insanity. The individuals committed for involuntary treatment are charged with a felony offense and are mandated to be admitted to a treatment facility within 15 days of the department's receipt of a complete commitment packet from the courts. These individuals are primarily served in three of the State's mental health facilities. These 3 facilities contain 1,267 forensic and forensic step-down beds and serve approximately 2,200 people each year. The department also provides community forensic services through in-jail and community competency restoration services.

In late 2006, the number of persons waiting for forensic treatment reached unprecedented levels, and the department was unable to comply with the law mandating treatment within 15 days. The forensic waiting list reached a peak of 343 individuals on October 2, 2006, with 277 of those persons awaiting admission in excess of 15 days. The average number of days to wait for admission to a forensic facility by January 2007 was 72 days.⁵ The Legislative Budget Commission took action in January 2007 to re-allocate funds to address this problem. The department opened additional forensic beds with the funding and enhanced use of community forensic services. On July 1, 2007 there were no offenders exceeding the statutorily-required 15-day period after court referral, and no offenders were awaiting transport from local jails to a forensic facility. The department reduced the average number of days an individual must wait in jail prior to admission to a state mental health facility from 4.2 days in July 2007 to 3.3 days in August 2007.

The number of forensic commitments from the court has steadily risen over the past decade. In 1998, 863 people were received from court commitments and in 2006, 1,483 commitments were received.

Effects of the Proposed Bill

Screening of Mental Health Personnel

The bill amends background screening requirements for personnel in public and private mental health programs and facilities to require level 2 screening for all personnel who work with persons with mental illness. Current law requires level 2 screening only for persons who work with *children* with mental illness. The proposal would also eliminate a screening exemption for mental health personnel in licensed hospitals who have contact with patients less than 15 hours per week. The department, by contract with mental health programs and facilities around the state, already requires level 2 screening of mental health program and facility personnel who work with adults.

Contract Requirement for Residential Treatment Centers

The statutory definition of "residential treatment center for children and adolescents" in s. 394.67, F.S., includes a requirement that the provider must be "under contract with the department." With the promulgation of 65E-9, F.A.C., which established licensing standards and the subsequent licensure by

⁴ John Bryant Email dated 3-20-08, Department of Children and Families

⁵ Forensic Mental Health Update, Department of Children and Families, November 15, 2007

the Agency for Health Care Administration (AHCA), rather than the department, a contractual requirement with the department is no longer needed.

Mental Health and Substance Abuse Priority Populations and Enrollment requirements

In current statute, s. 394.674 (1), eligibility criteria for the substance abuse and mental health program is based on “target groups” approved by the Legislature pursuant to s. 216.066. However, this section of Chapter 216, F.S. was repealed in 2000. The repealed statute required agencies to submit performance standards as part of the budgeting process. Within these standards, agencies were directed to identify the customers, clients, and users of each program. These performance standards were subsequently approved by the Legislature.

This bill designates the priority populations as the eligibility criteria to receive substance abuse and mental health services. The populations in the bill are substantial similar to the populations currently served. The effect of this provision will clarify and set in statute which individuals are eligible to receive services from the substance abuse and mental health programs.

Current statute gives the department rule writing authority to implement a client eligibility and fee collection process. This section of the bill provides rule authority for the department to implement client enrollment requirements. The department plans to require additional data collection from service providers as part of the client enrollment process to improve client tracking.

Integrated Adult Mental Health Crisis Stabilization and Addiction Receiving Facilities

Crisis stabilization services are provided under the authority of Chapter 394, F.S., to persons who are experiencing an acute mental health or emotional crisis. These services are often provided in mental health crisis stabilization units, as an alternative to inpatient hospitalization. Addiction receiving facilities authorized under Chapter 397, F.S. “Substance Abuse Services” are also facilities that serve people experiencing a crisis. Many people who are treated in either of these settings have co-occurring problems of substance abuse and mental health. The department writes the rules that govern both mental health crisis stabilization units and addiction receiving facilities. The Agency for Health Care Administration is authorized to license the mental health crisis stabilization units, while the department licenses the addiction receiving facilities.

The bill provides authority to the Agency for Health Care Administration to license facilities which integrate adult crisis stabilization and addictions receiving facility services. The integrated facilities will be licensed as adult crisis stabilization units. The bill also designates the specific adult population that may receive services in the integrated facilities. The bill provides the department with rule authority to address eligibility criteria, clinical procedures, staffing, operational, administrative, financial and compliance investigation requirements for the integrated facilities. The bill states that substance abuse standards in the rule must meet or exceed existing standards for addiction receiving facilities as prescribed in 65D-30⁶ Florida Administrative Code.

Building Construction Standards Authority

The department is responsible for the operation of secure facilities, much like the Department of Corrections and Department of Juvenile Justice. The department has responsibility for 4 mental health treatment centers that require secure facility operations. The building plans for secure operations at these facilities include but are not limited to:

- Security fencing
- Internal and external camera systems

- Anti-helicopter devices
- Motion detector systems
- Sound detection systems
- Security lighting systems
- Security lock systems

The department reports that these facilities will have greater security if the systems and plans have limited exposure to public scrutiny. Currently, the building codes and plans for these facilities are reviewed by the construction inspection departments of local governments. The department would use private inspectors to perform the function if given authority.

The bill provides authority for the department to exclusively enforce the building construction regulations relating to secure mental health treatment facilities under their jurisdiction.

Training of Mental Health Experts and the Forensic Examiner Registry

The evaluation of defendants for competency to proceed or sanity, subsequent to a felony offence must be conducted by mental health experts who apply uniform criteria based on the Florida Rules of Criminal Procedure. Chapter 916.111, F.S., provides the authority and guidance for the development of training for mental health experts to complete the forensic evaluations.

The court appoints the experts who conduct the forensic evaluations. Since the late 1980s, the department has maintained a list of evaluators for the court to choose from who have completed forensic evaluator training. This list is required to be given to the courts annually.⁷ Current statute, specifies “to the extent possible” the appointed experts shall have completed the forensic evaluator training. Therefore, statute does not mandate that experts performing evaluations must complete the training. In addition, the law does not specify how long an expert may remain on the list of evaluators before they are required to retake the training.

The bill requires the forensic evaluator training to take place annually. In addition, mental health experts who wish to be on the forensic evaluator list must take the training at least once in every 5 years. Those who have not completed the training within this time frame will be removed from the registry. The bill also clarifies that all experts appointed by the court must have completed the forensic evaluator training in the previous 5 years.

The bill also allows graduate students completing a practicum, psychological specialists, and post doctoral fellows at state mental health treatment facilities to assist in the forensic evaluation process, as long as their reports are overseen and approved by a qualified evaluator who is current on forensic training.

Treatment of Department of Corrections Inmates Incompetent to Proceed or Not Guilty by Reason of Insanity

Chapter 916, F.S., provides for the involuntary commitment of individuals to the Department of Children and Family Services for treatment who have been adjudicated incompetent to proceed or not guilty by reason of insanity. The statute does not make exceptions for involuntary commitments to the department for prisoners at the Department of Corrections who have committed new felonies. The prisoners fall into three categories:

⁷ s.916.115(1)(b)

- Prisoners who have been sentenced to death entitled to mandatory appeal and found to need competency restoration services
- Prisoners who have committed a new felony while incarcerated and have been adjudicated incompetent to proceed due to mental illness
- Prisoners who have committed a new felony while incarcerated and have been acquitted of charges because of a finding of not guilty by reason of insanity.

The department reports they are currently serving 5 prisoners from the Department of Corrections who were found incompetent to proceed. During the previous year (2006-2007), they served 18 prisoners found incompetent to proceed.⁸ The department also reports three recent cases where death row inmates were involuntarily committed to the department for competency restoration treatment.⁹ However, the court orders specified that the treatment take place at the Department of Corrections. In these instances, the department must send staff into the corrections facility to provide treatment. The Department has raised concerns for safety of staff and other residents while serving prisoners transferred from the Department of Corrections to a department facility to receive treatment.

The bill provides that the Department of Corrections will retain responsibility for appropriate treatment to restore competency and/or physical placement for prisoners who need competency restoration services (including prisoners sentenced to death) or found not guilty by reason of insanity. The bill further provides that the Department of Children and Families will provide a lesson plan for competency restoration training, evaluate prisoners for competency and file reports to the court at regular intervals when competency has been restored. In addition, the Department of Children and Families must file a report to the court within 30 days of release of a prisoner determined not guilty by reason of insanity. In these cases, the court shall be requested to determine if continued commitment is necessary.

Transport and Hearings for Forensic Residents:

Current statute does not require a timeframe for transporting an individual back to jail or scheduling and holding the court hearing for individuals whose competency has been restored or no longer meet criteria for commitment. However, Florida Rules of Criminal Procedure¹⁰ requires the court to hold a hearing to determine if the defendant continues to be incompetent within 30 days of the receipt of a report from the department. When delays occur in the transporting of defendants and the scheduling of competency hearings, the department is unable to make these forensic beds available to new defendants who have been committed by the court and are waiting on placement. The department reports that at least 12 percent of forensic clients are not picked up within 30 days to attend a hearing. In addition, they report that only 17.5 percent of forensic clients are transported back to jail within 15 days of submitting a report to the court.¹¹

The bill requires the Sheriff to transport a defendant who has been involuntarily committed due to mental illness or not guilty by reason of insanity back to jail to await a competency or commitment hearing within 15 days of the court receiving the department's report. The bill also requires a court hearing to be scheduled and occur within 30 days of the court receiving the report. The purpose of these requirements is to improve timely movement of defendants out of treatment facilities and back to the court system. Timely transfers would help the department to avoid waiting lists for forensic beds and assist them to meet the statutory requirement¹² for a person to be admitted to a forensic facility within 15 days of the court order.

⁸ Email from Molly Jones, DCF, March 10, 2008.

⁹ Case #s CRC97-20160CFANO; CR98-CF7190

¹⁰ Florida Rules of Criminal Procedure 3.212(c)(5)(A)

¹¹ Email from Molly Jones, DCF, March 11, 2008.

¹² s.916.107(1)(a)

Community Mental Health and Substance Abuse Treatment Crime Reduction Act

The Supreme Court published a report in the summer of 2007, titled Mental Health, Transforming Florida's Mental Health System. The report provided a description of the problems with community mental health care in Florida and frameworks for establishing criminal justice, mental health and substance abuse initiatives and systems. The department subsequently prepared a legislative budget request to address issues identified in the Supreme Court report.

Approximately 125,000 persons with severe mental illnesses are booked into jails in Florida each year. In Florida up to 23% of jail inmates have serious mental illnesses, as reported by the Florida Council for Behavioral Healthcare. These individuals often come to the attention of law enforcement as a result of circumstances related to their mental illness. Many commit minor criminal offenses and are arrested and taken to jail, rather than to a more appropriate community mental health facility. Subsequently, many are committed to a state mental health treatment facility for competency restoration training, due to a lack of available community mental health treatment alternatives. During this past fiscal year the forensic system experienced a crisis due to the backlog of hospital admissions, with many individuals waiting in jails for months. Mid-year, the Legislature allocated an additional \$41,000,000 for 313 additional secure forensic psychiatric and 30 forensic step-down psychiatric beds at an approximate annual cost of \$124,742 per bed. The department has estimated an annual cost of \$40,680 per bed for community-based diversion services.

If prevention from criminal justice engagement is unsuccessful, there are still opportunities for diversion at several stages of the law enforcement-judicial hearing process. Finally, persons with mental illnesses are released from institutional settings back into the community. Of the 12,000 prison inmates in Florida that have a severe mental illness, 4,000 are released back into the community each year. Ensuring successful treatment and support linkages at the time of release can substantially improve prospects for successful community reintegration, and reduce recidivism.¹³

This bill creates the Community Mental Health and Substance Abuse Crime Reduction Act in s. 394.9086, Florida Statutes. The Act includes legislative intent and seven specific goals for the new program. Goals include the following:

- Ensure that forensic competency restoration services are provided in the least restrictive, least costly, and most efficient environment;
- Provide competency restoration services in the community when appropriate, based on consideration of public safety, needs of the individual and available resources;
- Reduce admissions for competency restoration to state forensic mental health treatment facilities;
- Reduce rates of arrest, incarceration, and re-incarceration for persons in the program;
- Ensure public safety;
- Increase outreach and services to individuals at risk of criminal justice system, juvenile justice system and forensic mental health system involvement;
- Support collaboration among local law enforcement, judicial, and correctional stakeholders implementing diversion and problem-solving strategies that will reduce the demand for forensic mental health placement.

¹³ DCF Legislative Budget Request FY 2008-2009. "Florida's Sequential Intercept and Redirection Program."

The bill directs the Department of Children and Families in consultation with the Agency for Health Care Administration to develop and implement a community mental health and substance abuse forensic treatment system, also known as “forensic system” as the primary means of implementing the goals of the Act. The forensic system is to build upon local initiatives for diverting individuals from the criminal justice system and re-entry strategies from state hospitals which are identified in the Criminal Justice, Mental Health and Substance Abuse Reinvestment Grant Program which was created by the 2007 Legislature.

Forensic System Requirements

The bill provides minimum requirements for the forensic system including competency restoration services in community-based programs, intensive care management, housing and employment services, medication management, trauma services, residential services to address crisis episodes, short term residential treatment and other services including alternative models in less restrictive settings. The bill also describes a variety of initiatives and strategies which may be included in the system including mental health courts, training for criminal and juvenile justice personnel and other services.

Forensic System Eligibility

The bill provides eligibility criteria and a priority ranking for target populations needing forensic services. The system is limited to adults with mental illnesses who have been court ordered into forensic commitment and have committed non-violent crimes and meet public safety criteria for a community placement, followed by adults who have been found competent and are discharged from a state forensic hospital. The last eligibility group consists of adults at risk or already involved with the criminal justice system. The effect of serving the ranked eligibility groups is to divert people, when appropriate, from commitment to state forensic hospitals and jails to receive competency restoration and treatment services in the community as a more cost effective means of providing the service. The second tier of ranked eligibility targets adults who have been discharged from state hospitals with their competency restored and to help them avoid re-entry to the hospital or criminal justice system. Finally, this system will address the needs of people at risk of commitment and involvement with the criminal justice system as evidenced by the frequency of their encounters with that system.

Department Responsibilities

The bill defines the Department of Children and Families responsibilities to develop the system of services to implement the community mental health and substance abuse forensic system. These responsibilities include but are not limited to:

- Setting standards and requirements for service providers.
- Selecting demonstration sites.
- Identifying and contracting with providers in the system.
- Measuring performance through standards and monitoring contracts.
- Entering into agreements with county planning councils

Demonstration sites for implementation of the Act

The bill establishes criteria for the department to select up to 3 demonstration sites for implementing this Act. The department (if feasible) is to implement one of the sites by contracting with a managing

entity and using a pre-paid capitation rate for payment. All sites will be considered based on community readiness, high forensic state hospital bed utilization rates and involvement with the Criminal Justice, Mental Health, Substance Abuse Reinvestment Program under s. 394.656, F.S.

Advisory Group (see s.394.655, F.S.)

The bill directs the Substance Abuse and Mental Health Corporation to provide consultation in development of treatment services for people in forensic facilities, jails, prisons, and juvenile justice centers. In addition, the corporation is to appoint an advisory committee to review and monitor the implementation of the Community Mental Health and Substance Abuse Treatment and Crime Reduction Act.

Technical Assistance Center (see s. 394.659, F.S.)

The 2007 Legislature created the Criminal Justice Mental Health and Substance Abuse Technical Assistance Center at the Louis de la Parte Florida Mental Health Institute. The technical assistance center was created in conjunction with the Criminal Justice, Mental Health, Substance Abuse Reinvestment Program created under s. 394.656, F.S., to assist counties in the reinvestment program, disseminate and act as a clearinghouse for information, submit an annual report and other duties. This bill adds to the duties of the technical assistance center to assist the department in defining competencies, proficiencies and outcome measures for communities in the reinvestment program, identify evidence based practices, consult and train service providers and submit a report on implementation of the Community Mental Health and Substance Abuse Treatment and Crime Reduction Act.

Home and Community Based Mental Health Services (see s. 409.906 (26), F.S.)

The bill directs the Agency for Health Care Administration to seek federal approval to serve individuals under the Act through a Medicaid state plan amendment. This would include individuals with incomes up to 150%¹⁴ of poverty level. The agency must receive approval from the Legislature or Legislative Budget Commission before implementing a state plan amendment. The effect of this provision will allow the state, subject to Legislative approval, to receive federal match at the rate of 56 percent on some portion of the services provided to individuals served under this Act. It is not clear at this time which services provided would be eligible to receive federal match.

Conditional Release (see s. 916.17, F.S.)

The bill requires the court to place individuals who meet the criteria for involuntary commitment under s. 916.13, F.S., in a community residential facility for competency restoration if their current most serious charge is a third-degree or second-degree non-violent felony. These placements are limited to the demonstration site areas of the Community Mental Health and Substance Abuse Treatment Crime Reduction Act. The court will not place individuals in the community for competency restoration if bed space or funding is not available in the demonstration site area or if the court makes a finding that the individual cannot be safely placed in the community. The bill provides criteria for the court to use in making the findings related to safe placement of the individual. The effect of this proposal is to require the use of the community for competency restoration services when appropriate.

C. SECTION DIRECTORY:

Section 1. Amends s.394.4572, F.S., related to screening of mental health personnel.

Section 2. Amends s.394.4996, F.S., related to integrated adult mental health crisis stabilization unit and addictions receiving facility services.

¹⁴ \$15,315 for an individual in 2007.

Section 3. Amends s.394.655 related to substance abuse and mental health corporation.

Section 4. Amends s.394.656, F.S., related to criminal justice, mental health, substance abuse reinvestment grant program.

Section 5. Amends s.394.657, F.S., related to county planning councils or committees.

Section 6. Amends s. 394.659, F.S., related to criminal justice, mental health and substance abuse technical assistance center.

Section 7. Amends s.394.67, F.S., related to definitions.

Section 8. Amends s.394.674, F.S., related to client eligibility.

Section 9. Amends s.394.9086, F.S. related to community mental health and substance abuse and crime reduction act.

Section 10. Amends s.409.906, F.S., related to optional Medicaid services.

Section 11. Amends s.553.80, F.S., related to enforcement of building code.

Section 12. Amends s.916.111, F.S., related to training of mental health experts.

Section 13. Amends s.916.115, F.S., related to appointment of experts.

Section 14. Amends s.916.13, F.S., related to involuntary commitment of defendant adjudicated incompetent.

Section 15. Amends s.916.15, F.S., related to involuntary commitment of defendant adjudicated not guilty by reason of insanity.

Section 16. Amends s. 916.17, F.S., related to conditional release.

Section 17. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See note in Fiscal Comments section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See note in Fiscal Comments section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons required to take the Forensic Evaluator Training must pay a fee for the training. The department advises that the cost of this training in 2007 was \$445 per person.

D. FISCAL COMMENTS:

State Government Impact

The provisions of the bill included in the Community Mental Health and Substance Abuse Treatment and Crime Reduction Act section include the development and initial implementation of a community mental health and substance abuse forensic treatment system on a pilot basis in up to three geographic areas of the state. The House proposed General Appropriations Act for Fiscal Year 2008-2009 contains funding for this initial program implementation in Specific Appropriation 377A. The appropriation provides \$8,000,000 from the General Revenue Fund for Transforming Florida's Mental Health System. This line item includes the following proviso language:

From funds in Specific Appropriation 377A, \$250,000 from the General Revenue Fund shall be used to develop a plan outlining the proposed expenditure of funds for the implementation of a process to transform Florida's mental health system. This plan shall be submitted to the Executive Office of the Governor, the chair of the Senate Fiscal Policy and Calendar Committee, and the chair of the House Policy and Budget Council prior to the release of the remaining funds in this appropriation. Approval for the expenditure of the remaining \$7,750,000 shall be obtained from the Legislative Budget Commission.

The additional provisions of the bill not involving the Community Mental Health and Substance Abuse Treatment and Crime Reduction Act are anticipated to be implemented within existing department and agency resources.

Local Government Impact

The requirement of the Sheriff to transport the person from the state hospital to the jail within 15 days of the court receiving the competency report may result in additional jail day expenditures on the part of the county. However, in a county with a waiting list for forensic beds, any such cost would be neutralized by the placement of an a waiting individual in the forensic bed vacated by the individual returned to the county jail. Also it is unknown the degree to which the 15 day requirement would cause additional jail days comparative to current practice on a by county basis. Therefore, the potential impact is unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision may apply if it is determined that the requiring the sheriff to transport the person to the county jail within 15 days of the court receiving the competency report results in additional costs to the counties of \$1.9 million or greater in the aggregate. If this is the case, in the absence of an applicable exemption or exception, Article VII, section 18(a) of the state constitution provides that counties or municipalities shall not be bound by laws requiring them to spend funds or take actions requiring them to spend funds unless the legislature determines that the law fulfills an important state interest and the law is passed by 2/3 of the membership of each house of the legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

N/A

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES