

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 4179 Florida Mental Health Act

**SPONSOR(S):** Nuñez

**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	13 Y, 0 N	Batchelor	Schoolfield
2) Health & Human Services Committee			

### SUMMARY ANALYSIS

HB 4179 repeals s. 394.4674, F.S. relating to a comprehensive plan and report for the deinstitutionalization of patients in a treatment facility who are over the age of 55 and do not meet the criteria for involuntary placement pursuant to s. 349.467, F.S. This law has been in effect since 1980.<sup>1</sup>

The plan and report are no longer needed and the Department of Children and Family Services has not issued the report or plan in recent years. Current law<sup>2</sup> provides for the discharge of involuntary patients and specifies that anytime a patient is found to no longer meet the criteria for involuntary placement the patient shall be discharged unless they are placed on a voluntary or convalescent status.

The bill does not have a fiscal impact.

The bill provides an effective date of July 1, 2012.

<sup>1</sup> Ch.80-293, § 2, L.O.F.

<sup>2</sup> S. 394.469, F.S.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

The Department of Children and Families (DCF) is designated the “Mental Health Authority” in the state. DCF is responsible for the planning, evaluation, and implementation of a statewide program of mental health, including community services, receiving and treatment facilities, child services, research and training. Additionally, DCF is responsible for establishing standards, providing technical assistance, and exercising supervision of mental health programs, and the treatment of patients at, community facilities, other facilities for persons who have mental illness, and any agency or facility providing services to patients.<sup>3</sup>

Section 394.4674, F.S., directs DCF to develop a comprehensive plan for the deinstitutionalization of patients in a treatment facility<sup>4</sup> who are over age 55 and do not meet the criteria for involuntary placement pursuant to s. 349.467, F.S. This law was enacted in 1980<sup>5</sup>. The plan was required to include, at a minimum, the projected number of patients, the timetables for deinstitutionalization and the specific actions to be taken to accomplish deinstitutionalization. Further, DCF is required to submit a semiannual report to the Legislature until the conditions of the deinstitutionalization plan are met. DCF advises that a report has not been issued in recent years.<sup>6</sup>

Currently, s. 394.469, F.S., provides for the discharge of involuntary patients and specifies that anytime a patient is found to no longer meet the criteria for involuntary placement, the administrator shall:

- Discharge the patient, unless the patient is under a criminal charge, in which case the patient shall be transferred to the custody of the appropriate law enforcement officer;
- Transfer the patient to voluntary status on his or her own authority or at the patient’s request, unless the patient is under criminal charge or adjudicated incapacitated; or
- Place an improved patient, except a patient under a criminal charge, on convalescent status in the care of a community facility.

##### **Effect of Proposed Changes**

The bill repeals s. 394.4674, F.S., which in 1980 directed DCF to develop a comprehensive plan for the deinstitutionalization of patients in a treatment facility who are over the age of 55 and who do not meet the criteria for involuntary placement. The repeal also eliminates the requirement for a semiannual report to the Legislature.

The repeal of this report and plan is not anticipated to have an effect on DCF or on the timely discharge of patients as requirement is outdated. Currently, section 394.469, F.S., provides guidelines for the discharge of involuntary placements.

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<sup>3</sup> S. 394.457, F.S.

<sup>4</sup> “Treatment facility” means any state-owned, state-operated, or state-supported hospital, center, or clinic designated by the department for extended treatment and hospitalization, beyond that provided for by a receiving facility, of persons who have a mental illness, including facilities of the United States Government, and any private facility designated by the department when rendering such services to a person pursuant to the provisions of this part. Patients treated in facilities of the United States Government shall be solely those whose care is the responsibility of the United States Department of Veterans Affairs. s.394.455(32),F.S.

<sup>5</sup> Ch.80-293,§ 2, L.O.F.

<sup>6</sup> Email from Stephenie Colston, January 19, 2012. Department of Children and Families (on file with committee staff).

B. SECTION DIRECTORY:

**Section 1:** Repeals s. 394.4674, F.S. relating to Plan and Report.

**Section 2:** Provides an effective date of July 1, 2012.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**