

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 358

INTRODUCER: Senator Garcia

SUBJECT: Mental Health and Substance Abuse

DATE: March 15, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Crosier</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Sneed</u>	<u>Williams</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3.	<u>Sneed</u>	<u>Hansen</u>	<u>AP</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 358 authorizes the Department of Children and Families to approve behavioral health care receiving systems, designate and monitor receiving and treatment facilities and suspend or withdraw such designation for non-compliance with the law or the department's rules. This bill revises the reporting requirements of the managing entities for the Acute Care Services Utilization Database. The department is required to post certain data on its website on a monthly basis.

The court is required to schedule a hearing on a petition for involuntary services for substance use disorder within five court working days unless a continuance is granted.

The bill is not expected to have a fiscal impact on the state.

The bill has an effective date of July 1, 2017.

**II. Present Situation:**

Persons in crisis due to mental illness, who are a danger to themselves or others, are assessed and provided short-term treatment at a receiving facility. A receiving facility is a public or private facility or psychiatric hospital designated to receive and hold involuntary patients under the Baker Act.<sup>1</sup> Professional staff at receiving facilities determine if the person needs psychiatric care, what type of care is needed, and what type of setting is most appropriate. All receiving facilities are licensed to evaluate individuals. Some receiving facilities are also licensed as Crisis Stabilization Units (CSU) and can provide treatment and medication to stabilize an individual's condition. Once evaluated, a legal petition can be filed on behalf of the patient and the court can order the person to a treatment facility. Treatment facilities can be inpatient facilities, such as a

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<sup>1</sup> Part 1 of Ch. 394, F.S.

state mental health hospital, or a community facility that provides inpatient and outpatient mental health treatment services. Indigent persons must be cared for under the Baker Act. These services are funded by the Department of Children and Families (department).

Persons in crisis for substance use disorders who are considered a danger to themselves or others may be taken to an addictions receiving facility, a detoxification facility, or a county jail. Similar to the Baker Act, persons in a crisis for substance use disorders may be held under the Marchman Act.<sup>2</sup> Indigent persons are provided care by publicly funded facilities and programs, but such services are not guaranteed and are limited in capacity.

The department designates receiving facilities to treat mental illness and substance use disorders. This designation is made when the facility has the capacity, staff, and procedures to care for such persons in crisis. The department may withdraw such designation for a receiving facility that fails to comply with the department's adopted rules. In addition to being designated as a receiving facility, mental health receiving facilities are licensed by the Agency for Health Care Administration, while addiction receiving facilities are licensed by the department.

In 2016, the Legislature passed Senate Bill 12 (chapter 2016-241, Laws of Florida) which addressed the fragmentation and inefficiency of the state's behavioral health services, making it difficult for persons with complex, persistent and co-occurring mental health and substance use disorders to obtain needed services. The legislative intent of SB 12 was, among other things, to create a coordinated system of care in regions or communities with a "No Wrong Door model" delivery system of behavioral health services.

When receiving facilities cannot care for a person in crisis, the facility shall refer the person to an appropriate facility. A collection of emergency behavioral health care providers make up a receiving system. SB 12 requires local communities to propose to the department what will constitute their local receiving system. The department will then designate this receiving system. This new duty for the department to "designate" the receiving systems has created some confusion in the behavioral health care system because the department also designates individual receiving facilities.

Public funding for local community mental health and substance use disorder services is managed by regional behavioral health managing entities under contract with the department.<sup>3</sup> While the managing entities do not fund the state mental health hospitals, they do fund the receiving facilities. Because the care provided at receiving facilities is one of the most expensive behavioral health care services, the managing entities and the department maintain data to monitor the use of such services.<sup>4</sup> Receiving facilities provide this utilization data to the managing entity in real time or at least daily. The facilities submit data on such things as the admissions and discharges of clients, the total number of licensed and utilized beds, the number of beds purchased by the managing entity, the number of clients qualifying as indigent who occupy any of those beds, the total number of unoccupied licensed beds, and the number in excess of licensed capacity. Facility beds licensed for both adult and children are combined in

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<sup>2</sup> Ch. 397, F.S.

<sup>3</sup> s. 394.9082, F.S.

<sup>4</sup> *id*

the report. The managing entity and the department use such data to plan and manage these services.

Under the Marchman Act, a petition for involuntary services for a substance abuse impaired person is filed with the Clerk of the Court. The court determines whether the respondent is represented by counsel or if the appointment of counsel for the respondent is appropriate. The court shall schedule a hearing on the petition within five days unless a continuance is granted.<sup>5</sup> The statutes fail to specify whether the requirement is five court working days or calendar days.

### III. Effect of Proposed Changes:

**Section 1** amends s. 394.461, F.S., to clarify that the department will approve rather than designate receiving systems. The department will continue to designate receiving and treatment facilities and have the authority to suspend or withdraw a facility's designation for failure to comply with the law and rules adopted to administer the facilities. A facility designated as a public receiving or treatment facility is required to submit its initial report of certain data to the department within six months of such designation.

**Section 2** amends s. 394.879, F.S., to delete an obsolete provision requiring a report by the department and the Agency for Health Care Administration on the efforts of the department and agency to develop a plan to provide options for a single, consolidated license for a provider that offers multiple types of mental health services or substance abuse services, or both.

**Section 3** amends s. 394.9082, F.S., to remove the requirement that providers of public receiving facilities submit, in real time or at least daily, the number of clients qualifying as indigent occupying total licensed beds purchased by the department in excess of licensed capacity. The crisis stabilization units licensed for both adult and child use will report each unit separately. The bill requires the department to post the data collected from the managing entities on its website by facility, and update this data monthly.

**Section 4** amends s. 397.6955, F.S., to clarify that a petition for involuntary services for a substance abuse impaired person will be scheduled by the court within five court working days rather than within five calendar days unless a continuance is granted.

**Section 5** provides an effective date of July 1, 2017.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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<sup>5</sup> s. 397.6955, F.S.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 358 is not expected to have a fiscal impact on the state.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.461, 394.879, 394.9082, and 397.6955.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.