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.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL:	SB 1016
INTRODUCER:	Senator Rouson
SUBJECT:	Mental Health and Substance Abuse
DATE:	April 3, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	**Pre-meeting**
2.			AHS	
3.			FP	

I. Summary:

SB 1016 revises several contractual requirements and duties of the state's managing entities (MEs). The bill modifies the statutory definition of "managing entity" and revises the procurement mechanisms applicable to ME contracts. The bill also requires the Department of Children and Families (DCF) to review ME assessments for inclusion in the DCF's legislative budget requests (LBRs).

The bill repeals three sections of statute, relating to contracts for provision of local substance abuse and mental health (SAMH) programs, state and district SAMH plans, and financing of district programs and services, and gives the MEs sole discretion, authority, and responsibility for developing and implementing the state's coordinated system of care for mental health and substance abuse care services.

The bill requires the MEs to collaborate with county emergency operation centers to identify organizations that ensure access to, and coordinate delivery of, behavioral health services to responders and survivors and survivor's family members of a public emergency as critical public health infrastructure.

The bill removes an existing statutory requirement for the DCF to rebid ME contracts every five years, including renewals and extensions. The bill provides that if all ME contract requirements are substantially met and the DCF determines that a ME has maintained network accreditation, the DCF may continue its contract with the ME for as long as the ME meets its contractual and performance requirements.

The bill will likely have an indeterminate negative impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Managing Entities

The DCF administers a statewide system of safety-net services for SAMH prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.[1]

In 2001, the Legislature authorized the DCF to implement behavioral health managing entities (ME) as the management structure for the delivery of local mental health and substance abuse services.[2] The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized the DCF to implement MEs statewide.[3] Full implementation of the statewide managing entity system occurred in 2013 and all geographic regions are now served by a ME.[4]

Contracted MEs

The MEs are required to comply with various statutory duties, including, in part, to:
- Maintain a governing board;
- Promote and support care coordination;[5]
- Develop a comprehensive list of qualified providers;
- Monitor network providers' performances;
- Manage and allocate funds for services in accordance with federal and state laws, rules, regulations and grant requirements; and
- Operate in a transparent manner, providing access to information, notice of meetings, and opportunities for public participation in ME decision making.[6]

The DCF contracts with seven MEs as shown in the map below and summarized as follows:
- Big Bend Community Based Care, Inc. d/b/a NWF Health Network (blue);
- Lutheran Services Florida (yellow);
- Central Florida Cares Health System (orange);
- Central Florida Behavioral Health Network, Inc. (red);
- Southeast Florida Behavioral Health Network (pink);
- Broward Behavioral Health Network, Inc. (purple); and
- Thriving Mind South Florida (South Florida Behavioral Health Network, Inc.) (beige).[7]

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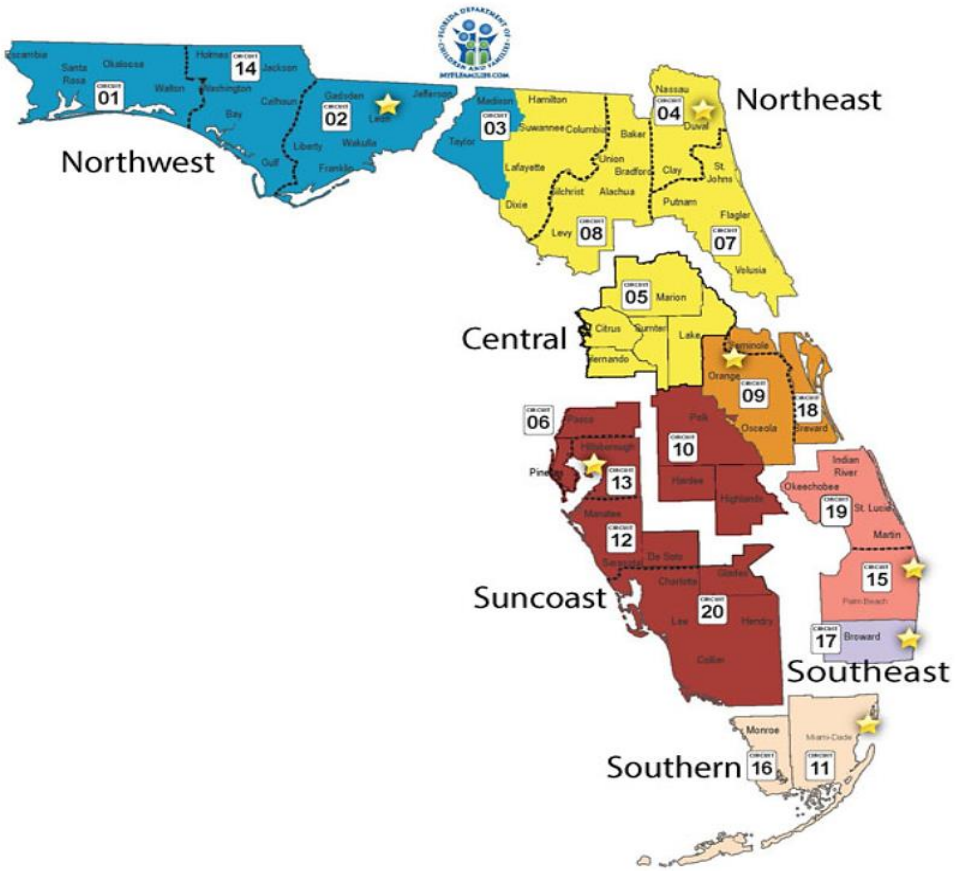
[1] *See* chs. 394 and 397, F.S.
[2] Chapter 2001-191, L.O.F.; codifying s. 394.9082, F.S.
[3] Chapter 2008-243, L.O.F.
[4] Florida Tax Watch, *Analysis of Florida's Behavioral Health Managing Entity Models*, p. 4, March 2015, available at https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/15758/Analysis-of-Floridas-Behavioral-Health-Managing-Entities-Model (last visited March 29, 2023).
[5] Section 394.9082(5)(g), F.S. Section 394.9082(6), F.S.,sets out the network accreditation and systems coordination agreement requirements.
[6] Section 394.9082(5), F.S.
[7] The DCF, *Managing Entities*, https://www.myflfamilies.com/services/substance-abuse-and-mental-health/samh-providers/managing-entities (last visited March 29, 2023).



The MEs in turn contract with local service providers for the delivery of mental health and substance abuse services.[8]

Coordinated System of Care

Managing entities are required to promote the development and implementation of a coordinated system of care.[9] A coordinated system of care means a full array of behavioral and related services in a region or community offered by all service providers, participating either under contract with a managing entity or by another method of community partnership or mutual agreement.[10] A community or region provides a coordinated system of care for those suffering from mental illness or substance abuse disorder through a no-wrong-door model, to the extent allowed by available resources.[11]

There are several essential elements which make up a coordinated system of care, including:

- Community interventions;

[8] Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.
[9] Section 394.9082(5)(d), F.S.
[10] Section 394.4573(1)(c), F.S.
[11] Section 394.4573(2)(b)2., F.S.

- Case management;
- Care coordination;
- Outpatient services;
- Residential services;
- Hospital inpatient care;
- Aftercare and post-discharge services;
- Medication assisted treatment and medication management; and
- Recovery support.[12]

A coordinated system of care must include, but is not limited to, the following array of services:
- Prevention services;
- Home-based services;
- School-based services;
- Family therapy;
- Family support;
- Respite services;
- Outpatient treatment;
- Crisis stabilization;
- Therapeutic foster care;
- Residential treatment;
- Inpatient hospitalization;
- Case management;
- Services for victims of sex offenses;
- Transitional services; and
- Trauma-informed services for children who have suffered sexual exploitation.[13]

The DCF and ME Contracts

The DCF has a number of statutory duties with respect to overseeing and contracting with MEs. Specifically, the DCF must:
- Contract with organizations to serve as managing entities in accordance with the requirements of this section and conduct a readiness review of any new managing entities before such entities assume their responsibilities.
- Specify data reporting requirements and use of shared data systems;
- Define the priority populations that will benefit from receiving care coordination;
- Support the development and implementation of a coordinated system of care by requiring each provider that receives state funds for behavioral health services through a direct contract with the department to work with the ME in the provider's service area to coordinate the provision of behavioral health services as part of the contract with the DCF;
- Provide technical assistance to the MEs;
- Promote the coordination of behavioral health care and primary care;
- Facilitate coordination between the ME and other payors of behavioral health care;

[12] Section 394.4573(2)(b)2., F.S.
[13] Section 394.495(4), F.S.

- Develop and provide a unique identifier for clients receiving behavioral health services through the ME to coordinate care;
- Coordinate procedures for the referral and admission of patients to, and the discharge of patients from, treatment facilities and their return to the community;
- Ensure that MEs comply with state and federal laws, rules, regulations, and grant requirements;
- Develop rules for the operations of, and the requirements that shall be met by, the ME, if necessary;
- Periodically review contract and reporting requirements and reduce costly, duplicative, and unnecessary administrative requirements; and
- Collect and publish, and update annually, certain information on the website of each ME.[14]

In contracting for services with MEs, the DCF is required to first attempt to contract with not-for-profit, community-based organizations with competence in managing provider networks serving persons with mental health and substance use disorders to serve as MEs.[15] The DCF must issue an invitation to negotiate (ITN) under s. 287.057, F.S., to select an organization to serve as a ME. If the DCF receives fewer than two responsive bids to the solicitation, the DCF is required to reissue the solicitation and managed behavioral health organizations[16] are then eligible to bid and be awarded a contract.[17]

If the DCF issues an ITN as described above, the DCF must consider, at a minimum, the following factors:

- Experience serving persons with mental health and substance use disorders;
- Established community partnerships with behavioral health care providers;
- Demonstrated organizational capabilities for network management functions;
- Capability to coordinate behavioral health services with primary care services; and
- Willingness to provide recovery-oriented services and systems of care and work collaboratively with persons with mental health and substance use disorders and their families in designing such systems and delivering such services.[18]

The DCF's contracts with MEs must support efficient and effective administration of the behavioral health system and ensure accountability for performance.[19] A contractor serving as a ME must operate under the same data reporting, administrative, and administrative rate requirements, regardless of whether it is a for-profit or not-for-profit entity.[20] The contract must designate the geographic area that will be served by the ME, which area must be of sufficient size in population, funding, and services to allow for flexibility and efficiency.[21] The contract must also require that, when there is a change in the ME in a geographic area, the ME must work

[14] Section 394.9082(3), F.S.
[15] Section 394.9082(4)(a), F.S.
[16] Section 394.9082(2)(d), F.S., defines a "managed behavioral health organization" to mean "a Medicaid managed care organization currently under contract with the statewide Medicaid managed medical assistance program in this state pursuant to part IV of ch. 409, F.S., including a managed care organization operating as a behavioral health specialty plan."
[17] Section 394.9082(4)(b), F.S.
[18] Section 394.9082(4)(e), F.S.
[19] Section 394.9082(4)(f), F.S.
[20] Section 394.9082(4)(g), F.S.
[21] Section 394.9082(4)(h), F.S.

with the DCF to develop and implement a transition plan that ensures continuity of care for patients receiving behavioral health services.[22]

Current law provides that by June 30, 2019, if all other contract requirements and performance standards are met and the DCF determines that an ME under contract as of July 1, 2016, has received network accreditation, the DCF may continue its contract with the ME for up to, but not exceeding, 5 years, including any and all renewals and extensions.[23] Thereafter, the DCF must issue a competitive solicitation.[24]

Among the seven current contracts between the DCF and the MEs, two expire in June 2024 and are not eligible for additional renewals.[25] The remaining five ME contracts expire June 2023, and they are in the process of receiving a final one-year renewal in anticipation of a competitive solicitation, pursuant to current standards in statute.[26]

Duties of MEs

MEs are required to conduct a community behavioral health care needs assessment every three years in the geographic area served by the respective ME which identifies needs by sub region.[27] The assessment must also include a list and descriptions of any gaps in the arrays of services for children or adolescents identified pursuant to s. 394.4955, F.S., and recommendations for addressing such gaps.[28] The ME must provide the needs assessment to the DCF.[29] MEs must also work collaboratively with public receiving facilities and licensed housing providers to establish a network of licensed housing resources for mental health consumers that will prevent and reduce readmissions to public receiving facilities.[30]

ME Duties: Enhancement Plans and Acute Care Services Data

MEs are required to develop and submit to the DCF a description of strategies for enhancing services and addressing three to five priority needs in the ME's service area.[31] The planning process sponsored by the ME must include consumers and their families, community-based care lead agencies, local governments, law enforcement agencies, service providers, community partners and other stakeholders.[32] Each strategy must be described in detail and accompanied by an implementation plan that specifies action steps, identifies responsible parties, and delineates specific services that would be purchased, projected costs, the projected number of individuals that would be served, and the estimated benefits of the services.[33] All or parts of these

[22] Section 394.9082(4)(i), F.S.
[23] Section 394.9082(4)(j), F.S.
[24] *Id*.
[25] The DCF, *Agency Analysis of SB 1016*, p. 2. (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The DCF Analysis").
[26] *Id*.
[27] Section 394.9082(5)(b), F.S.
[28] *Id*.
[29] *Id*.
[30] Section 394.9082(5)(l), F.S.
[31] Section 394.9082(8), F.S.
[32] *Id*.
[33] *Id*.

enhancement plans may be included in the DCF's annual budget requests submitted to the Legislature.[34]

The DCF must also develop, implement, and maintain standards under which an ME must collect utilization data from all public receiving facilities situated within its geographical service area and all detoxification and addictions receiving facilities under contract with the ME.[35]

Contracts for Provisions of Local SAMH Programs

The DCF is authorized to contract for the establishment and operation of local SAMH programs with any hospital, clinic, laboratory, institution, or other appropriate service provider.[36] Contracts for services must be consistent with approved district plans.[37] Contracts must include, but need not be limited to:

- A provision that, within the limits of available resources, SAMH crisis services must be available to any individual residing or employed within the service area, regardless of ability to pay for such services, current or past health condition, or any other factor;
- A provision that such services be available with priority of attention being given to individuals who exhibit symptoms of chronic or acute substance abuse or mental illness and who are unable to pay the cost of receiving such services;
- A provision that every reasonable effort to collect appropriate reimbursement for the cost of providing SAMH services to persons able to pay for services, including first-party payments and third-party payments, must be made by facilities providing services;
- A program description and line-item operating budget by program service component for SAMH services, provided the entire proposed operating budget for the service provider will be displayed;
- A provision that client demographic, service, and outcome information required for the DCF's Mental Health and Substance Abuse Data System be submitted to the DCF by a date specified in the contract. The DCF may not pay the provider unless the required information has been submitted by the specified date; and
- A requirement that the contractor must conform to DCF rules and the priorities established thereunder.[38]

District SAMH Plans

Every three years, the DCF must create a state master plan for the delivery and financing of publicly funded, community-based SAMH services throughout the state.[39] The master plan outlines statewide and region-specific priorities developed with stakeholder input and based on current trends and conditions related to behavioral health services in Florida.[40]

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[34] *Id*.
[35] Section 394.9082(10), F.S.
[36] Section 394.74(1), F.S.
[37] Section 394.74(2)(a), F.S.
[38] Section 394.74(3), F.S.
[39] Section 394.75, F.S.
[40] The DCF, *Substance Abuse and Mental Health Triennial Plan Update Fiscal Year 2020-2021*, p. 2, (Jan. 1, 2022), available at https://www.myflfamilies.com/sites/default/files/2022-

The DCF uses the master plan to guide statewide quality improvement initiatives and develop policy and budget recommendations.[41] The master plan has several components, including a district (regional) component which details how SAMH services will be provided in the service district and district funding priorities.[42] District funding priorities must include approval by the district for expenditures which are subject to state payment, such as salaries, contracted facilities and services, and operations costs.[43]

Financing of District Programs and Services

Section 394.76, F.S., provides for local match funding of regional SAMH programs and services to supplement legislative finding in the General Appropriations Act.[44] If in any fiscal year the approved state appropriation is insufficient to finance such programs and services, the DCF has the authority to determine the amount of state funds available to each service district for such purposes in accordance with the priorities in both the state and district plans.[45] The district administrator must consult with the planning council to ensure that the summary operating budget conforms to the approved plan.[46] Subject to an established statutory funding formula, the DCF is authorized to develop and demonstrate alternative financing systems for SAMH services.[47] Proposals for demonstration projects must be reviewed by the substantive and appropriations committees of the Senate and the House of Representatives prior to implementation of the projects.[48]

Local governing bodies are authorized to appropriate moneys, in lump sum or otherwise, from public funds for the implementation of SAMH programs and services.[49] In addition to the payment of claims upon submission of proper vouchers, such moneys may also, at the option of the governing body, be disbursed in the form of a lump-sum or advance payment for services for expenditure, in turn, by the recipient of the disbursement without prior audit by the auditor of the governing body.[50] Such funds must be expended only for SAMH purposes as provided in the approved district plan.[51] Each governing body appropriating and disbursing moneys must require the expenditure of such moneys by the recipient of the disbursement to be audited annually either in conjunction with an audit of other expenditures or by a separate audit.[52] Such annual audits must be furnished to the governing bodies of each participating county and municipality for their examination.[53] No additional local matching funds can be required solely due to the addition in

12/Substance%20Abuse%20and%20Mental%20Health%20Services%20Plan%20FY%202020-2021%20Update.pdf (last visited March 29, 2023).
[41] *Id.*
[42] *Id.*
[43] Section 394.76(7), F.S.
[44] Section 394.76, F.S.
[45] Section 394.76(2), F.S.
[46] *Id.*
[47] Section 394.76(4), F.S.
[48] *Id.*
[49] Section 394.76(10), F.S.
[50] *Id.*
[51] *Id.*
[52] *Id.*
[53] *Id.*

the General Appropriations Act of SAMH block grant funds for local community mental health centers, drug abuse programs, and alcohol project grants.[54]

Federal Block Grants

Mandated by Congress, SAMHSA's block grants are noncompetitive grants that provide funding for substance abuse and mental health services.[55] A block grant is a noncompetitive, formula grant mandated by the U.S. Congress.[56] Eligible entities must submit an annual application to demonstrate statutory and regulatory compliance in order to receive the formula-based funding. SAMHSA is responsible for two block grant programs:

- The Substance Abuse and Treatment Block Grant; and
- The Community Mental Health Services Block Grant.[57]

Grantees use the block grant programs for prevention, treatment, recovery support, and other services to supplement Medicaid, Medicare, and private insurance services.[58] Specifically, block grant recipients use the awards for the following purposes:

- Fund priority treatment and support services for individuals without insurance or for whom coverage is terminated for short periods of time;
- Fund those priority treatment and support services that demonstrate success in improving outcomes and/or supporting recovery that are not covered by Medicaid, Medicare, or private insurance;
- Fund primary prevention by providing universal, selective, and indicated prevention activities and services for persons not identified as needing treatment; and
- Collect performance and outcome data to determine the ongoing effectiveness of behavioral health promotion, treatment, and recovery support services.[59]

Receiving and Treatment Facilities

The DCF is authorized to designate and monitor receiving facilities, treatment facilities, and receiving systems and may suspend or withdraw such designations for failure to comply with Florida law.[60] Unless specifically designated by the DCF, facilities are not permitted to hold or treat involuntary patients experiencing a mental health or substance use disorder crisis.[61] The DCF has authority to designate any community-based facility as a receiving facility.[62]

The DCF may also specifically designate any state-owned, state-operated, or state-supported facility as a state treatment facility.[63] The DCF can designate any other facility, including private and federal facilities, as either a receiving facility or a treatment facility provided that the

[54] Section 394.76(11), F.S.
[55] The Substance Abuse and Mental Health Services Administration (SAMSHA), *Substance Abuse and Mental Health Block Grants*, available at https://www.samhsa.gov/grants/block-grants (last visited March 29, 2023).
[56] *Id*.
[57] *Id*.
[58] *Id*.
[59] *Id*.
[60] Section 394.461, F.S.
[61] *Id*.
[62] Section 394.461(1), F.S.
[63] Section 394.461(2), F.S.

governing board or authority of such facility agrees to the designation.[64] Private facilities designated as receiving and treatment facilities by the DCF may provide examination and treatment of involuntary patients, as well as voluntary patients.[65]

III. Effect of Proposed Changes:

The bill removes a requirement for MEs to lead the development of a plan that promotes the development and effective implementation of a coordinated system of behavioral health care serving children and adolescents throughout the state. The bill changes the responsibility of MEs from planning the system of care to implementing the system. The bill also repeals s. 394.74, F.S., relating to contracts for provision of local substance abuse and mental health programs; s. 394.75, F.S., relating to state and district substance abuse and mental health plans; and s. 394.76, F.S., relating to financing of district programs and services. Taken together with the bill's directive for the MEs to implement the system, rather than just plan, these changes will give the MEs sole discretion, authority, and responsibility for developing and implementing the state's coordinated system of care.

The bill modifies the definition of 'managing entity' to specify that a ME is a corporation selected by and under contract with the DCF to manage the daily operational delivery of behavioral health services through a coordinated system of care that:

- Does not provide therapeutic services; and
- Is eligible to receive federal block grant funding.

The bill revises the duties of the DCF with respect to the MEs by requiring the DCF to:

- Work with and allow the MEs to have direct input when reviewing expenditures to determine funding of appropriate services and reduce administrative burdens; and
- Complete a review of all reports submitted by MEs for the purpose of reducing administrative burdens by identifying obsolete, duplicative, and uninformative reports.

The bill permits, rather than requires, the DCF to issue an invitation to negotiate (ITN) to select organizations to serve as MEs. If the DCF does not receive one responsive bid, rather than two as in current law, the bill permits the DCF to reissue the solicitation. Managed behavioral health organizations will be eligible to bid and be awarded a contract, notwithstanding the federal block grant requirement.

The bill removes the requirement for the DCF to rebid ME contracts every five years, including renewals and extensions. The bill provides that if all ME contract requirements are substantially met and the DCF determines that an ME has maintained network accreditation, the DCF may continue its contract with the ME for as long as the ME meets its contractual and performance requirements.

The bill requires the DCF, in consultation with ME representatives, to review the three year needs assessments performed by the MEs for inclusion in the DCF's LBR. The bill also requires the MEs to collaborate with county emergency operation centers to identify organizations that

[64] Section 394.461(1) and (2), F.S.
[65] Section 394.461(3), F.S.

ensure access to, and coordinate delivery of, behavioral health services to responders and survivors and survivor's family members of a public emergency as critical public health infrastructure.

The bill requires MEs to develop and submit needs enhancement plans to the DCF by June 1 of each year, rather than September 1. The bill also requires, rather than permits as in current law, the DCF to consider enhancement plans submitted by the MEs in the DCF's LBR.

The bill specifies that the MEs collect acute care services utilization data only on contracted public receiving facilities situated within the respective geographic region of each ME.

The bill makes a number of conforming changes and deletes obsolete language relating to deadlines for ME contract requirements.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DCF states that the bill will likely reduce local expenditures by an indeterminable amount.[66] The repeal of s, 394.76, F.S., would result in:

- Removing the DCF's authority to determine the amount of state funds available at local or regional levels; and
- Eliminating all requirements for local financial participation in state-funded community behavioral health services, potentially generating an unidentifiable reduction in the levels of funding available for public behavioral health treatment, prevention, and recovery services.[67]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.494, 394.4955, 394.9082, 394.4574, 394.493, and 394.674 of the Florida Statutes.

This bill repeals sections 394.74, 394.75, and 394.76 of the Florida Statutes.

The bill reenacts sections 394.9086(3)(a) and 394.9087(6) of the Florida Statutes.

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.

[66] The DCF Analysis at p. 6.
[67] *Id.*