Session Law 84-285

Florida Senate & House of Representatives

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ABSTRACT OF LEGISLATIVE HISTORY DOCUMENTATION

Session Law: 84-285  
Affected Statute: 394.65 - 394.79

Prime Bill No.: CS/SB 797  
Sponsor: Senator Betty Castor

Other Bill Nos.: HB 1273 (PCB 8), SB 344

The following is a checklist of documentation located pertaining to the above referenced legislation. Copies reproduced and supplemental to this report are indicated by * for items copied in whole and ** for copies of selected pages only. A more detailed report of findings is available upon request.

( ) Original Session Law:________________________________________

( ) Florida Statutes:____________________________________________

(*) Bill Histories: SB 344, SB 797, HB 1273

(*) Prime Bill Versions: SB 797, **CS/SB 797 (secs. 10-23)

(*) Similar/Companion Bills: SB 344, HB 1273, CS/HB 1273


(*) Committee Staff Summaries and Analyses: Senate HRS Committee, CS/SB 797, staff analysis 5/15/84 (rev. 6/1/84); SB 344 draft staff analysis [3/15/84]; House HRS Committee, staff analysis for CS/HB 1273, 6/20/84. (NOTE: all items sent on 10/17/86).

(*) Committee Meeting Records: Meeting Tapes: Senate HRS Committee, 5/17/84 (tapes 1-2 of 4 tapes): House HRS Committee, 4/23/86 (tape 2 only. tape 1 defective), 5/1/84. (NOTE: these items sent 10/20/86)

continued on reverse
Florida Information Associates
Abstract of Legislative History

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( ) Other Committee Documentation: ________________________________

( ) Floor Debate Recordings: ________________________________

( ) Miscellaneous Documentation: ________________________________

RECOMMENDATIONS FOR FURTHER RESEARCH

Additional information could possibly be obtained from committee members and staff of the 1984 Senate and House HRS committees, bill sponsors, and lobbyists who appeared before these committees.

COMMENTS

While CS/SB 797 was the bill that ultimately produced Laws of Florida, Chapter 84-285, House committee consideration on the bill was on House HRS proposed committee bill, PCB 8, later filed as HB 1273. HB 1273 was made into a committee substitute (CS) by the House Appropriations Committee.

October 21, 1986

FIA Researcher

Date
MENTAL HEALTH

The chapter is divided into four parts, each addressing a specific area of mental health policy, however, two sections, Parts I and IV, serve to establish a framework for the delivery of public mental health services.

Part I, the Florida Mental Health Act, known as "the Baker Act," was enacted in 1971, and became effective in 1972. The Baker Act provides definitions, criteria and procedures for the voluntary and involuntary treatment of mentally ill persons, and establishes a bill of rights for persons who are treated for mental illness. These rights include a right to treatment in the least restrictive setting available; the right to individual dignity, including a prohibition against treating mentally ill persons in the same manner as criminals; the right to provide consent to treatment and the right to refuse treatment; the right to quality treatment; the right to confidentiality of information regarding one's mental illness and its treatment; and the right to habeas corpus. The act establishes procedural guidelines for the detention, examination, and treatment of persons in emergency situations as well as describing the civil commitment process and the procedure for continuing the placement for hospitalization of persons in need of further treatment for mental illness.

In addition to its procedural guidelines, the Baker Act also serves as the basis for a system of community-based services which provide "less restrictive" settings for the treatment of persons who would otherwise require care in state mental hospitals. These programs, specifically the designated receiving facilities, provide emergency screening, treatment and referral on a short-term basis for acutely mentally ill persons. These services are funded by the state through the specific authority of the act and Baker Act services are a line-item in the General Appropriations Act. The state has statutory authority to fund these services at 100 percent, however, rule provides that the dollars be matched on a 75-to-25 state to local ratio.

Part IV of Chapter 394 is the "Community Mental Health Act," and was enacted in 1970 to establish an administrative framework for the delivery of community mental health services, in response to the activities at the federal level in community mental health, particularly the enactment of P.L. 94-63, the Community Mental Health Centers Act. This section of the statute establishes the policy of the state in regard to the manner in which community-based mental health services are to
be planned, administered and funded. It provides for district mental health boards in HRS service districts and sub-districts; the boards are composed of citizens appointed by the local governing bodies in each of the counties within the service district. The boards are charged with the responsibilities of reviewing and evaluating mental health and alcohol service needs in their area, developing plans and budgets for service needs, receiving and disbursing state, local and federal funds, contracting for services with providers, and monitoring compliance with state and federal regulations as they relate to contractual requirements and guidelines. There are 15 district mental health boards in the state, each having their own staff, the number of which vary from two to eight positions per district, and they report that they administer approximately $100 million dollars in state, local and federal funds.

Other provisions of Part IV which have substantial impact on delivery of mental health services relate to the specific financial obligations of state and local government to the funding of mental health services. The state provides 100 percent of the funds for mental health services provided in state hospitals (1982-83 estimated expenditure: $38,531,440) and 75 percent of the funds for community mental health services (1982-83 appropriations: $38,148,941). Section 334.6, F.S., requires that state dollars be matched on a 3 to 1 basis by local funds (25 to 25, state to local). Local governments are required to participate in funding of services in an amount which when added to other available local funds (third party payments, donations, fees, etc.) will constitute the 25 percent match. The amount of participation (provided by local government) has been estimated to be from approximately $1 million to $20 million dollars annually. The expenditure of funds for community mental health services is required to be consistent with programs described in the district plan, however, exception is made that provides for priority for continuation of programs which have been previously funded by the state and have complied with departmental standards.

B. Effect of Proposed Changes:

This bill amends several sections of both Part I and Part IV of Chapter 394, F.S. Part I is amended to prohibit jails from being designated as receiving facilities, to broaden the criteria for involuntary examination and placement and to provide certain qualifications to rights of mental health clients. The bill requires that the least restrictive available treatment for a patient be that which is also most appropriate. In addition, the bill provides the circumstances under which the confidentiality of patient records may be breached, most specifically allowing for release of information when a patient has expressed an intention to harm. There are substantial additions to language describing procedures and responsibilities for the transportation of mentally ill persons, both civil and criminal, which remove that responsibility from law enforcement and require that local governments find alternate methods of providing transport services. Law enforcement agencies are required to notify the designated receiving facility to arrange for evaluation or treatment of criminally charged or convicted mentally ill persons as soon as possible after arrest.

The bill also requires that before a person is released from an involuntary examination that a professional be consulted who would be authorized to initiate examination. The requirement that a person be held only 72 hours is maintained. Patients are provided right to counsel in placement proceedings and a
Patient may not waive his hearing for initial or continued placement without advice of counsel.

CS/SB 740 also amends the Community Mental Health Act, including within Part IV of Chapter 394 guidelines for the administrative structure of community alcohol, drug abuse and mental health services. District mental health boards are replaced by alcohol, drug abuse and mental health planning councils, which are charged with the responsibilities of assessing alcohol, drug abuse and mental health needs in the communities within their district, and developing a plan and budget to address those needs. The councils are to be staffed by the HRS district offices. Financial and contracting responsibilities are assigned to the HRS district administrator as are compliance monitoring functions, although the planning council is to be represented on the monitoring team. The bill also makes substantial changes in the area of financial monitoring and accountability, particularly in regard to submission of financial information by contractors, and repeals the section of statute that assures current contractors of continued funding.

The bill creates a task force on public psychiatry that will work to improve the quality of public mental health care and involve psychiatry more effectively in the planning and provision of mental health care.

Sectional Analysis

Section 1. Deletes requirement in s. 381.434, F.S., for local health councils to work with district mental health boards regarding resource allocations.

Section 2. Amends legislative intent in s. 394.453, F.S., to replace reference to district mental health boards with a reference to the district.

Section 3. Definitions. s. 394.457, F.S., "mental health board" and "board district" are removed; the definition of "receiving facility" is amended to specifically include county jails.

Section 4. Amends s. 394.457, F.S., deleting district mental health boards from the list of agents with which HRS may contract.

Section 5. Deletes reference to district mental health boards in s. 394.4573, F.S.

Section 6. Amends s. 394.459, F.S., relating to rights of patients; describing circumstances under which information from a client's clinical record may be released, and providing for a duty to warn by a professional and protection from liability when acting in good faith; requiring law enforcement to maintain confidentiality of certain information released; providing for restricted release of information to families; prohibits law enforcement and corrections from transporting mental health patients; counties are authorized to contract with private transportation companies for transport of mental patients; private transportation companies must provide no less than $100,000 liability insurance for transporting patients; private transportation companies must comply with HRS rules.

Section 7. Amends s. 394.461, F.S., requiring law enforcement officers to transport mentally ill persons exhibiting noncriminal behavior or minor criminal behavior to a receiving facility; requiring law enforcement officers to process mentally ill persons who have committed a felony involving a
crime of violence or a crime against a person in the same
manner as any other criminal suspect; requiring law enforcement
to immediately notify the designated receiving facility to
arrange for evaluation and treatment of a person arrested for a
felony involving a crime of violence against another person if
it appears that the person meets statutory guidelines for
involuntary examination or placement.

Section 8. Amends s. 394.463, F.S., relating to involuntary
examination, providing criteria for detention and examination,
directing law enforcement to deliver persons for examination
and requiring that a single law enforcement agency be
designated to transport persons; allowing for emergency medical
transport; describing conditions for release of patient after
examination.

Section 9. Amends s. 394.467, F.S., relating to involuntary
placement, providing criteria for placement; requiring
notification of right to the appointment of counsel; allowing
waiver of involuntary placement or continued placement near
only after advice of counsel.

Section 10. Amends s. 394.63, F.S., changing the title of Part
IV of Chapter 394.

Section 11. Amends s. 394.65, F.S., providing new legislative
intent to include a coordinated system of alcohol, drug abuse
and mental health services, ensuring cost neutrality of care, access
to services and priority attention, requiring local involvement
in planning and administration, providing for accountability.

Section 12. Amends s. 394.67, F.S., providing new definitions
for planning councils, and service providers; amending and
deleting definitions to conform to changes in this part.

Section 13. Creates s. 394.675, F.S., establishing a
comprehensive system of primary, rehabilitative, and preventive
alcohol, drug abuse and mental health services; defining
services in each category.

Section 14. Creates s. 394.715, F.S., providing for the
creation, appointment and responsibilities of alcohol, drug
abuse and mental health planning councils; providing for the
selection of members and composition of councils.

Section 15. Amends s. 394.73, F.S., making technical
conforming changes.

Section 16. Amends s. 394.74, F.S., relating to contracts for
services, providing required content for contracts and
conformance with district plans.

Section 17. Amends s. 394.75, F.S., providing for the content
and development of the district alcohol, drug abuse and mental
health plan; providing for review, comment and approval by
district administrator and local governments providing funds;
allowing for modifications by local government; providing for
resolution of disputes over content of plan and budget by HRS
secretary.

Section 18. Amends s. 394.76, F.S., relating to financial
provisions requiring the district administrator to consult with
the planning council; providing conditions for expenditures of
state funds and for use of funds generated by fees; providing
guidelines for audits; allowing lump sum funding by local
governments; exempting certain federal fundings from matching
requirements.
Section 19. Amends s. 394.77, F.S., making technical changes.

Section 20. Amends s. 394.78, F.S., making technical changes and requiring the development of standardized audit procedures by HRS; requiring HRS to monitor service providers for compliance with contract requirements and state and federal regulations; requiring representation of planning council members on the monitoring team.

Section 21. Amends s. 394.79, F.S., describing the requirements of the state alcohol, drug abuse and mental health plan, requiring consultation by the program office with district administrators, state hospital administrators, and planning councils in developing the plan.

Section 22. Amends s. 336.047, F.S., making technical conforming changes.

Section 23. Amends s. 396.072, F.S., making technical conforming changes.

Section 24. Amends s. 396.102, F.S., making technical conforming changes.

Section 25. Amends s. 396.11, F.S., making technical conforming changes.

Section 26. Creates a Task Force on Public Psychiatry to develop and oversee implementing plans to enhance the quality of psychiatric care available to clients receiving public mental health services; provides for the expiration of the task force.

Section 27. Repeals s. 394.69, 394.70, 394.71, F.S., and s. 394.81, F.S., as amended by Chapter 32-223, Laws of Florida.

Section 28. Provides for repeal of s. 394.715, F.S., on October 1, 1994, and reissue of alcohol, drug abuse and mental health councils pursuant to s. 11.011, F.S., the Sandown Act.

Section 29. Provides an effective date of July 1, 1984, except for sections 6 through 9 (relating to the Baker Act) which shall take effect January 1, 1985.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Unknown

B. Government:

State Fiscal Impact

Increased costs to the state to implement the provisions of the bill that amend Part I of Chapter 394 (the Baker Act) are estimated by the Department of HRS to be as follows:

1. Change in criteria for involuntary examination and involuntary placement - $994,130.

This figure is based on the assumption that the broadened criteria for examination and placement could increase the current cost to the system by 7 percent (current Baker Act appropriation = $18,935,795 x 7% x 75% (state share) = $994,130. The department's analysis assumes that no additional cost to the state hospitals would result, although it is recognized that both number of admissions and length of stay
may increase. However, because the bill does not substantially change existing criteria, they expect to be able to provide for any increase in admissions within existing resources.

2. Waiver of hearing with advice of counsel: Increased length of stay = $379,687; additional cost to provide counsel = $448,200.

The Public Defender's Coordinating Office reports that there were 5,311 cases in which public defenders were appointed in initial or continued placement hearings in 1983. During that time there were 12,000 involuntary placements statewide. The per client cost is $249. The increased costs for length of stay are derived from the assumption that fewer waivers of hearings will be executed, increasing the number of hearings; it is estimated that when a hearing is held the length of stay in the inpatient facility increases by 2.5 days per client. Currently, 15 percent of the 12,000 clients (1,800 clients) waive their hearing; if 75 percent of that 1,800 do not waive their hearing (1,350 clients) when counsel is provided, Baker Act involuntary days could increase by 3,375 days. Based on an average per diem of $150, the total cost is estimated at $506,250. The state portion at 75 percent is $379,687.

The additional cost to provide counsel to the 1,800 clients who now waive their hearing (at $249 per client) would be $448,200. However, $249 per client is a high estimate if the client does in fact execute a waiver.

3. Treatment of mentally ill persons with criminal charges

$2,129,861.

The cost for this issue is based on an estimated calculation of the number of persons who were picked up by law enforcement for minor criminal behavior, who also appeared to be mentally ill, in 5 HID districts. In those districts, 3,222 persons per year were estimated to fall in this category. Of those, 15 percent (483 persons) were estimated to meet criteria for placement in a Baker Act receiving facility. Using an average length of stay of 8.5 days, 483 clients at $150 a day would total $615,825. Extrapolation of that figure statewide would equal $1,354,315. The state share (75%) is $1,015,731.

Providing psychiatric treatment in jail for those clients not appropriate for community receiving facilities was based on available figures on the cost of community forensic in the HID budget request. That figure estimates that in addition to what counties currently provide for psychiatric evaluation in jails, an additional $135,000 per district would be required (this figure includes 5 professional staff, 1 clerical and limited purchase of psychiatric evaluations). The total cost statewide would be $1,485,000 (75 percent state $1,113,750).

The revisions of Part IV of Chapter 394 are expected to be accomplished within existing resources; the elimination of funds for administration of mental health boards would make available additional dollars to provide services or staff support to planning councils.

The task force will require an appropriation of $150,000 for the purpose of enhancing public psychiatry services. These general revenue funds will be used to contract with universities for the provision of various services to improve quality of public mental health care and to allow travel of task force members.
Figures on impact of proposed changes are based on the assumption that state funds provided for services required would be subject to local match (75-to-25, state to local). Based on required service dollar estimates, the total cost to local service providers and local government is estimated to be approximately $1,167,893. The breakdown for these costs is as follows:

Baker Act criteria = $331,376

Appointment of attorney prior to hearing waiver (increased length of stay in Baker Act facility) = $126,563

In jail treatment and treatment of misdemeanants = $709,954

The total cost would be divided statewide, although probably not equitably across districts, as patterns of use and demand would vary. Sources of funds for matching would include client fees, third party payments, donations and local governments contributions.

Changes to Part IV of Chapter 394 would probably not substantially affect local government, except to the extent to which they are providing funding for administration of mental health boards. Data from the district board association shows that county cash provided for board operation was $552,653 in 1982-83.

III. COMMENTS:

None

IV. AMENDMENTS:
Mental health services in Florida are provided within the statutory framework of Chapter 394, Florida Statutes. The chapter is divided into four parts, each addressing a specific area of mental health policy, however, two sections, Parts I and IV, serve to establish a foundation for the delivery of public mental health services. Part I, the Florida Mental Health Act, known as "the Baker Act," was enacted in 1971, and became effective in 1972. The Baker Act provides definitions, criteria, and procedures for the voluntary and involuntary treatment of mentally ill persons, and establishes a bill of rights for persons who are treated for mental illness. These rights include a right to treatment in the least restrictive setting available; the right to individual dignity, including a prohibition against treating mentally ill persons as criminals; the right to provide consent to treatment and the right to refuse treatment; the right to quality treatment; the right to confidentiality of information regarding one's mental illness and its treatment; and the right to habeas corpus. The act establishes procedures for the detention, examination, and treatment of persons in emergency situations as well as describing the civil commitment process and the procedure for continuing the placement for hospitalized persons in need of further treatment for mental illness.

In addition to its procedural guidelines, the Baker Act also serves as the basis for a system of community-based services which provide "less restrictive" settings for the treatment of persons who would otherwise require care in state mental hospitals. These programs, specifically the designated receiving facilities, provide emergency screening, treatment, and referral on a short-term basis for acutely mentally ill persons. Often referred to as "Baker Act services," thus confusing a financial mechanism with statutory procedures. These services are funded through the specific authority of the act and the Baker Act services are a line-item in the General Appropriations Act. The state has statutory authority to fund these services at 100 percent, however, rule provides that the dollars be matched on a 75-to-25 state to local ratio.

The Baker Act has been amended almost annually since its enactment. Most recent revisions occurred in 1979 and 1982. In 1979, the provisions relating to "least restrictive alternative" and "express and informed consent" were added. In 1982, the criteria for involuntary examination and placement were substantially amended, procedures relating to involuntary placement and continued placement were amended, and screening by a community mental health center was required. Part IV of Chapter 394 is the "Community Mental Health Act," and was enacted in 1971 to establish an administrative framework for the delivery of community mental health services, in response to the activities at the federal level in community mental health, particularly the enactment of P.L. 94-63, the Community Mental Health Act of 1975.
planning council is to be represented on the monitoring team. The bill also makes substantial changes in the area of financial monitoring and accountability, particularly in regard to submission of financial information by contractors, and repeals the section of statute that assures current contractors of continued funding.

Section 26 of the bill creates a task force on public psychiatry that will work to improve the quality of public mental health care and involve psychiatry more effectively in the planning and provision of mental health care.

Sectional Analysis

Section 1. Amends s. 381.494, F.S., relating to health councils, deleting language referring to district mental health boards.

Section 2. Amends s. 394.453, F.S., to conform legislative intent to proposed changes in statute.

Section 3. Amends s. 394.455, F.S., repealing and amending definitions consistent with changes in Part IV and qualifying the definition of “receiving facility.”

Section 4. Amends s. 394.457, F.S., to conform to changes in Part IV.

Section 5. Amends s. 394.4573, F.S., to conform to changes in Part IV.

Section 6. Amends s. 394.459, F.S., relating to rights of patients, requiring treatment for mentally ill persons held in jails; prohibiting holding of persons adjudicated pursuant to Chapter 916, F.S., longer than 15 days (effective July 1, 1985); describing criteria upon which information from a client’s medical record may be released, and providing for a duty to warn by a professional and protection from liability when acting in good faith; requiring law enforcement to maintain confidentiality of certain information and releasing; providing for restricted release of information to families; and modifying responsibility and procedures for transporting patients.

Section 7. Amends s. 394.461, F.S., relating to facilities and transfer of patients, making technical changes and providing direction for law enforcement regarding appropriate action upon the detention of mentally ill persons.

Section 8. Amends s. 394.463, F.S., relating to involuntary examination, providing criteria for detention and examination, directing law enforcement to deliver persons for examination and requiring that a single law enforcement agency be designated to transport persons; allowing for emergency medical transport; describing conditions for release of patient after examination.

Section 9. Amends s. 394.467, F.S., relating to involuntary placement, providing criteria for placement; requiring notification of right to the appointment of counsel; allowing waiver of involuntary placement or continued placement hearing only after advice of counsel.

Section 10. Amends s. 394.65, F.S., changing the short title of Part IV of Chapter 394.

Section 11. Amends s. 394.66, F.S., providing new legislative intent to include a coordinated system of alcohol, drug abuse and mental health services, ensuring continuity of care, access to services and priority attention, requiring local involvement in planning, providing for accountability, providing for locally administered service delivery programs.
Section 28. Provides for repeal of s. 394.715, F.S., and review of alcohol, drug abuse and mental health planning councils on October 1, 1994, pursuant to s. 11.611, F.S., the Sundown Act, prior to that date.

Section 29. Provides an effective date of July 1, 1984, except that subsections (2), (4), (9), and (11) of section 394.459, F.S., and sections 7 through 9 take effect January 1, 1985, and subsection (1) of section 394.459, F.S., takes effect July 1, 1985.

II. Fiscal Impact

A. State Fiscal Impact

Increased costs to the state to implement the provisions of CS/HB 1273 that amend Part I of Chapter 394 (the Baker Act) are estimated by the Department of HRS to be as follows:

- Change in criteria for involuntary examination and involuntary placement = $994,130.

This figure is based on the assumption that the broadened criteria for examination and placement could increase the current cost to the system by 7 percent (current Baker Act appropriation = 7% x $18,935,793 x 75% (state share) = $1,125,506). The department's analysis assumes that no additional cost to the state hospitals would result, although it is recognized that both number of admissions and length of stay may increase. However, because the bill does not substantially change existing criteria, they expected to be able to provide for any increase in admission within existing resources.

- Waiver of hearing with advice of counsel:
  - Increased length of stay = $379,687

The Public Defender's Coordinating Office reports that there were 5,111 cases in which public defenders were appointed in initial or continued placement hearings in 1983. During that time there were 12,000 involuntary placements statewide. The per client cost is $249. The increased costs for length of stay are derived from the assumption that fewer waivers of hearings will be executed, increasing the number of hearings; it is estimated that when a hearing is held the length of stay in the inpatient facility increases by 2.5 days per client.

Currently, 15 percent of the 12,000 clients (1,800 clients) waive their hearing; if 75 percent of that 1,800 do not waive their hearing (1,350 clients) when counsel is provided, Baker Act inpatient days could increase by 1,375 days. Based on an average per diem of $150, the total cost is estimated at $506,250. The state portion at 75 percent is $379,687.

The additional cost to provide counsel to the 1800 clients who now waive their hearing (at $249 per client) would be $448,200. However, $249 per client is a high estimate if the client does in fact execute a waiver.

- Treatment of mentally ill persons with criminal charges = $2,129,861.

The cost for this issue is based on a calculated estimation of the number of persons who were picked up by law enforcement for minor criminal behavior, who also appeared to be mentally ill, in 5 HRS districts in those districts, 3,222 persons per year were estimated to cost to this category. Of those, 15 percent (483 persons) were estimated to meet criteria for placement in a Baker Act receiving facility. Using an average length of stay of 8.5 days, 483 clients at $150 a day would total $615,825. Extrapolation of that figure statewide would equal $1,154,815. The state share (75%) is $866,161.

The increased costs for length of stay are derived from the assumption that fewer waivers of hearings will be executed, increasing the number of hearings; it is estimated that when a hearing is held the length of stay in the inpatient facility increases by 2.5 days per client.

B. Local Fiscal Impact

Figures on impact of proposed changes are based on the assumption that state funds provided for services required would be subject to local match (75-to-25, state to local). Based on required service dollar estimates, the total cost to local service providers and local government is estimated to be approximately $1,167,893. The breakdown for these costs is as follows:

- Baker Act criteria = $331,376
- Appointments of attorney prior to hearing waiver (increased length of stay in Baker Act facility) = $126,563
- In jail treatment and treatment of misdemeanants = $709,954

The total cost would be divided statewide, although probably not equitably across districts, as patterns of use and demand would vary. Sources of funds for matching would include client fees, third party payments, donations and local governments contributions.

Changes to Part IV of Chapter 394 would probably not substantially affect local government, except to the extent to which they are providing funding for administration of mental health boards. Data from the district board association shows that county cash provided for board operation was $552,653 in 1982-83.

C. Private Sector Fiscal Impact

Unknown

III. Comments

This bill originated with the recommendations of the Governor's Task Force on Community Mental Health which submitted its final report in March, 1984. The recommendations of this group were based upon the findings and report of Community Systems and Services.
Involuntary commitment, a Virginia-based private consulting firm hired by the Department of HRS at the direction of the Governor to review the state's system of providing mental health care in the community and the procedures for civil commitment of the mentally ill. The study was a response to increased public interest in mental health care as a result of an incident involving the bombing of a Tampa supermarket which caused the death of several persons; the suspect in the incident was later found to have a history of apparent mental illness for which he may have been treated at community facilities. The violent nature of this incident, and the fact that the press had a difficult time obtaining information about the suspect's history, combined to generate vigorous debate over issues in the mental health system which some felt should be addressed in order to "prevent" future incidents of this type.

The final report of the Task Force makes recommendations for substantial revisions to both the civil commitment policy and procedures in Florida and the administrative structure of the service delivery system for alcohol, drug abuse and mental health programs. The recommendations regarding changes to the administrative structure of the system are similar to those included in legislation which passed the House last year, and are essentially consistent with recommendations of the numerous studies and reviews that have been performed in the last five years. They would provide for a more integrated, comprehensive and administratively simpler system of providing alcohol drug abuse and mental health services. CS/HB 1273 implements the recommendations of the consultants in relation to the following specific issues:

- Provides clear authority and responsibility for mental health services with the Secretary of HRS;
- Creates planning councils to encourage local involvement in an appropriate manner and gives responsibility for the contracting and management of public funds to the Department of HRS;
- Provides for development of a system of services to address the needs of the chronically mentally ill providing for levels of primary, rehabilitative, and preventive services;
- Repeals provisions which limit the ability of the state to maximize the contract for services system, and which perpetuate a "grant-in-aid" system with little flexibility or accountability;
- Requires HRS to monitor for compliance with state and federal regulations.

The Task Force also suggested changes in the criteria and procedures for involuntary placement, and the rights afforded to mental health clients. The overall effect of these suggested changes would amend significantly the policy of the state as it relates to the rights to be afforded to mentally ill persons. Those changes originally recommended by the task force which are most significant include:

- The inclusion of "duty to warn" language allowing persons to breach confidentiality in cases in which an intention to harm has been disclosed;
- Changes to the criteria for involuntary examination and placement, allowing commitment based on an inability to meet basic needs, likelihood of harm to self or others or to cause substantial damage to property;
- Requiring law enforcement to take persons into custody under certain circumstances;
- Requiring the appointment of counsel for persons subject to involuntary placement.

The recommendations of the Task Force regarding changes in commitment criteria were based on the consultants' view that the current criteria were too narrowly constructed, thus diverting some mentally ill persons into the criminal justice system inappropriately, and that the criteria were too cumbersome and difficult for persons in the field to understand and operationalize. They also reported that because the Florida criteria requires that "behavior causing attempting or threatening harm" must occur within the 20 days previous to the commitment, that the criteria were the most stringent in the nation. (The State of Pennsylvania has a 10 limit on behavior, however, most states refer to "recent" behavior.) However, as it is currently drafted, the bill appears to address the majority of the consultants' specific recommendations, without substantially changing the policy of the state regarding the care of the mentally ill.

Prepared by: Kathy Goltrey
Staff Director: Kandace M. Hill
The Bill amends Chapter 394, F.S. It establishes alcohol and mental health boards within each district to plan, monitor and evaluate alcohol, drug abuse and mental health services; authorizes the Department to contract for these services with providers; requires equitable allocation of state funds with consideration of district populations, state priorities and community needs, removes cap on board operating expenditures while maintaining maximum state participation cap at $125,000. Changes method of appointment of district board members; allows (but does not require) board member removal for non-attendance; establishes a non-binding review of board member removal by the Secretary, requires an alcohol, drug abuse and mental health plan, repeals existing provisions which give (cont.)

A. Present Situation:
The Department contracts with mental health district boards which subcontract with mental health and alcohol providers for the provision of services. The Department contracts directly with drug abuse providers. Mental health boards' total operating expenditures are capped at $225,000 with a maximum state participation of $125,000. District administrators can create or eliminate boards in subdistricts and do not serve on the board.

Presently, substantial confusion and duplication exists between the Department and boards as to each other's roles and responsibility in the financial and programmatic monitoring of service contractors.

3. Effect of Proposed Changes (What has Proposed or Operations: (how will the bill change programs? who will be affected? how would the changes be implemented?)

All service programs will contract directly with the Department. The board will have responsibility for the alcohol, drug abuse and mental health services plan. The board will monitor and evaluate alcohol and mental health agencies for compliance with the board plan. The Department will retain responsibility for monitoring and evaluating drug abuse contractors. The Department will continue to contract with the boards for comprehensive planning, resource allocation and evaluation activities.

The Bill diminishes the district administrator's authority to require changes in the board plan. Further, once approved, the board plan becomes binding upon the Department.
discretion to create or eliminate boards in subdistricts; makes the district administrator an ex officio member of the board, removes the Department's contractual relationship with the board for the administration of services.
- The Bill does not clearly dichotomize between the boards' and the Department's monitoring responsibilities. Initially, it requires the board to contract with the district for the coordination and monitoring (of all) alcohol and mental health services. Subsequently, it limits the scope of the board's monitoring and evaluation activity to ensuring compliance with the district plan. The district, however, will have contracting responsibility which necessitates ensuring contract performance (e.g., fiscal and programmatic monitoring).

- The Bill authorizes the board to receive and expend funds for alcohol, drug abuse and mental health services. It is not clear as to whether this can be in addition to Department's contracts with providers.

- The district administrator, as a member of the board, would be directing and/or reviewing his own actions.

- By removing the cap on board expenditures, the Bill allows for expansion of board staff and spending.

IV. SUGGESTED CHANGES IN BILL:

The Bill should more clearly dichotomize between the roles of the board and the Department regarding monitoring, planning, contracting, and evaluation.

The district administrator should not serve on a board which has responsibility to the Department or to which the Department has a responsibility.

The authority of the district administrator to require revisions to the board's resource allocation plan should be clarified.

V. FISCAL SUMMARY (See Attached Fiscal Note for Details)

A. Personnel: ________________ Positions

B. Cost to Administer: $______________ (Annual)

C. In Department's Legislative Budget Request? _____YES _____NO

D. In Governor's Recommended Budget? _____YES _____NO
1. Agency requirements to administer the bill's provisions by appropriations categories (include cost of additional personnel, operating capital outlay, and other additional costs):

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount Year 1</th>
<th>Amount Year 2</th>
<th>Amount Year 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-recurring:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CCCD (Instr.)</td>
<td>154,766</td>
<td>23,892</td>
<td>0</td>
</tr>
<tr>
<td>(Instr. 1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recurring:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expenditures (Instr.)</td>
<td>113,550</td>
<td>21,245</td>
<td>46,780.00</td>
</tr>
<tr>
<td>(Instr. 2)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>465,718</td>
<td>426,220</td>
<td>426,020</td>
</tr>
</tbody>
</table>

2. Appropriations Consequences/Source of Funds:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount Year 1</th>
<th>Amount Year 2</th>
<th>Amount Year 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Amount and Disposition of any anticipated revenue collections:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount Year 1</th>
<th>Amount Year 2</th>
<th>Amount Year 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
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</tr>
</tbody>
</table>

4. Long run effects other than normal growth:

| None        |               |               |               |

5. Fiscal impact on local government units within the state: (start-up, annual, and long run effects)

| None        |               |               |               |

6. Impact on agency and/or bill objective:

| None        |               |               |               |

7. Other comments or suggestions concerning the bill:

| None        |               |               |               |