



Children, Families & Seniors Subcommittee

**Thursday, February 9, 2017
9:00 AM – 11:00 AM
12 HOB**

**Richard Corcoran
Speaker**

**Gayle Harrell
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Children, Families & Seniors Subcommittee

Start Date and Time: Thursday, February 09, 2017 09:00 am
End Date and Time: Thursday, February 09, 2017 11:00 am
Location: 12 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 23 Public Assistance by Eagle
CS/HB 151 Proceedings Involving Minors or Certain Other Persons by Civil Justice & Claims Subcommittee,
Brodeur

Workshop:

-Overview of the behavioral health safety-net system and update on SB 12 implementation by the
Department of Children and Families

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall
be 6:00 p.m., Wednesday, February 8, 2017.

By request of the Chair, all committee members are asked to have amendments to bills on the agenda
submitted to staff by 6:00 p.m., Wednesday, February 8, 2017.

NOTICE FINALIZED on 02/02/2017 4:02PM by Ellerkamp.Donna

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 23 Public Assistance
SPONSOR(S): Eagle and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Langston	Brazzell
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Florida's Temporary Cash Assistance (TCA) Program provides cash assistance to needy families with children that meet eligibility requirements. To be eligible for full-family TCA, applicants must participate in work activities unless they qualify for an exemption. The regional workforce boards support and monitor applicants' compliance with work activity requirements. The Department of Children and Families (DCF) may sanction TCA recipients who fail to meet work activity requirements through the withholding of cash assistance for a specified minimum time or until the participant complies, whichever is later. The sanctions are either full-family (where no members of the noncompliant recipient's family may receive TCA) or allow for child-only TCA (where any children under 16 may continue to receive TCA). In Florida, TCA and other social welfare benefits are placed on Electronic Benefits Transfer (EBT) cards. Currently, there is no fee charged in Florida for replacement EBT cards, although federal regulations allow the imposition of such fees under certain conditions.

HB 23 increases the penalties for the first three instances of noncompliance with the TCA work requirements to align with the food assistance program's sanctions and creates a fourth sanction. The bill:

- Increases the first sanction from 10 days to one month; this sanction remains full-family.
- Increases the second sanction from one month or until compliance, whichever is later, to three months or until compliance, whichever is later; and limits child-only TCA to the first three months of the sanction period.
- Increases the third sanction from three months or until compliance, whichever is later, to six months or until compliance, whichever is later; and limits child-only TCA to the first six months of the sanction period.
- Creates a fourth sanction of twelve months or until compliance, whichever is later, and that the individual must reapply to the program; and limits child-only TCA to the first twelve months of the sanction period.

The Department of Children and Families (DCF) must refer sanctioned participants to appropriate free and low-cost community services, including food banks. Additionally, the Department of Economic Opportunity, with DCF and CareerSource Florida, must work with the participant to develop strategies on how to overcome barriers to compliance with the TCA work requirements that the recipient faces. They must also inform the participant, in plain language, and have the participant agree to, in writing, what is expected of the applicant to continue to receive benefits, under what circumstances the applicant would be sanctioned, and potential penalties for noncompliance with work requirements, including how long benefits would not be available.

The bill also amends the Relative Caregiver program to prohibit payment of TCA to a noncustodial parent who lives with the relative who is caring for the noncustodial parent's child and receiving Relative Caregiver funding.

The bill requires EBT cardholders to pay a fee for the fifth and every subsequent EBT card requested within a 12-month span. The bill allows DCF to deduct the fee from the cardholder's benefits and provides for a waiver of the fee upon a showing of good cause, such as that the card malfunctioned or the fee would cause extreme financial hardship.

The bill has a significant negative nonrecurring fiscal impact to DCF of \$952,360 to implement the changes made by the bill to the TCA program and the EBT card system. The bill will have a recurring significant positive fiscal impact of \$325,000 in fees recouped from EBT card replacements and \$2,758,265 in savings from the reduction in TCA benefits during sanction.

The bill contains a placeholder appropriation.

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

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

STORAGE NAME: h0023.CFS

DATE: 2/7/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Temporary Assistance for Needy Families (TANF)

Under the federal welfare reform legislation of 1996, the Temporary Assistance for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children, the Job Opportunities and Basic Skills Training program, and the Emergency Assistance program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides states, territories, and tribes federal funds each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized in 2006 by the Deficit Reduction Act of 2005. States receive block grants to operate their individual programs and to accomplish the goals of the TANF program.

Florida's Temporary Cash Assistance Program

The Temporary Cash Assistance (TCA) Program provides cash assistance to families with children under the age of 18 or under age 19¹ if full time secondary school students, that meet the technical, income, and asset requirements. The purpose of the TCA Program is to help families become self-supporting while allowing children to remain in their own homes. In November 2016, 12,517 adults and 65,855 children received TCA.²

Full-Family vs. Child-Only TCA

Florida law specifies two categories of families who are eligible for TCA: those families that are work-eligible and may receive TCA for the full-family, and those families who are eligible to receive child-only TCA. Within the full-family cases, the parent or parents are required to comply with work requirements to receive TCA for the parent(s) and child(ren). Additionally, there are two types of child-only TCA:

- Where the child has not been adjudicated dependent, but is living with a relative,³ or still resides with his or her custodial parent, but that parent is not eligible to receive TCA;⁴ and
- The Relative Caregiver Program, where the child has been adjudicated dependent and has been placed with relatives by the court. These relatives are eligible for a payment that is higher than the typical child-only TCA.

The majority of cash assistance benefits are provided to child-only cases, through the Relative Caregiver Program or to work-eligible cases where the adult is ineligible due to sanction for failure to meet TCA work requirements. In November 2016, 35,350 of the 47,204 families receiving TCA were child-only cases.⁵ In November 2016, there were 11,854 families receiving TCA through full-family

¹ Parents, children and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy.

² Department of Children and Families, Monthly Flash Report Caseload Data: November 2016, <http://eww.dcf.state.fl.us/ess/reports/docs/flash2005.xlsx> (last visited January 30, 2017).

³ Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

⁴ Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments, situations where the parent is not a U.S. citizen and is ineligible TCA due to their immigration status, and situations where the parent has been sanctioned for noncompliance with work requirements.

⁵ *Supra*, note 2.

cases containing an adult, 520 of which were two-parent families; these are the families who are subject to work requirements.⁶

Administration

Various state agencies and entities work together through a series of contracts or memorandums of understanding to administer the TCA Program.

- The Department of Children and Families (DCF) is the recipient of the federal TANF block grant. DCF monitors eligibility and disperses benefits.
- CareerSource Florida, Inc. is the state's workforce policy and investment board. CareerSource Florida has planning and oversight responsibilities for all workforce-related programs.
- The Department of Economic Opportunity (DEO) implements the policy created by CareerSource.⁷ DEO submits financial and performance reports ensuring compliance with federal and state measures and provides training and technical assistance to Regional Workforce Boards.
- Regional Workforce Boards (RWBs) provide a coordinated and comprehensive delivery of local workforce services. The RWBs focus on strategic planning, policy development and oversight of the local workforce investment system within their respective areas, and contracting with one-stop career centers. The contracts with the RWBs are performance- and incentive- based.

Eligibility Determination

An applicant must meet all eligibility requirements to receive TCA benefits. The initial application for TANF is processed by DCF. The application may be submitted in person, online or through the mail.

DCF determines an applicant's eligibility. Additionally, to be eligible for full-family TCA, applicants must participate in work activities unless they qualify for an exemption. Exemptions from the work requirement are available for:

- An individual who receives benefits under the Supplemental Security Income program or the Social Security Disability Insurance program.
- An adult who is not defined as a work-eligible individual under federal law.
- A single parent of a child less than 3 months of age, except that the parent may be required to attend parenting classes or other activities to better prepare for raising a child.
- An individual who is exempt from the time period pursuant to s. 414.105, F.S.

If no exemptions from work requirements apply, DCF refers the applicant to DEO.⁸ Upon referral, the participant must complete an in-take application and undergo assessment by RWB staff which includes:

- Identifying barriers to employment.
- Identifying the participant's skills that will translate into employment and training opportunities.
- Reviewing the participant's work history
- Identifying whether a participant needs alternative requirements due to domestic violence, substance abuse, medical problems, mental health issues, hidden disabilities, learning disabilities or other problems which prevent the participant from engaging in full-time employment or activities.

⁶ Id.

⁷ S. 445.007(13), F.S.

⁸ This is an electronic referral through a system interface between DCF's computer system and DEO's computer system. Once the referral has been entered into the DEO system the information may be accessed by any of the RWBs or One-Stop Career Centers.

Once the assessment is complete, the staff member and participant create the Individual Responsibility Plan (IRP). The IRP includes:

- The participant's employment goal;
- The participant's assigned activities;
- Services provided through program partners, community agencies and the workforce system;
- The weekly number of hours the participant is expected to complete; and
- Completion dates and deadlines for particular activities.

DCF does not disperse any benefits to the participant until DEO or the RWB confirms that the participant has registered and attended orientation.

Work Requirement

Individuals receiving TCA who are not otherwise exempt from work activity requirements must participate in work activities for the maximum number of hours allowable under federal law.⁹ The number of required work or activities hours is determined by calculating the value of the cash benefits and then dividing that number by the hourly minimum wage amount.

Federal law requires individuals to participate in work activities for at least:

- 20 hours per week, or attend a secondary school or the equivalent or participate in education directly related to employment if under the age of 20 and married or single head-of-household
- 20 hours per week for single parents with a child under the age of six.
- 30 hours per week for all other single parents.
- 35 hours per week, combined, for two-parent families not receiving subsidized child care.
- 55 hours per week, combined, for two-parent families receiving subsidized child care.

Pursuant to federal rule¹⁰ and state law,¹¹ the following activities may be used individually or in combination to satisfy the work requirements for a participant in the TCA program:

- Unsubsidized employment.
- Subsidized private sector employment.
- Subsidized public sector employment.
- On-the-job training.
- Community service programs.
- Work experience.
- Job search and job readiness assistance.
- Vocational educational training.
- Job skills training directly related to employment.
- Education directly related to employment.
- Attendance at school or course of study for graduate equivalency diploma.
- Providing child care services.¹²

RWBs currently have discretion to assign an applicant to a work activity, including job search, before receiving TCA. Some RWBs already require applicants to complete an initial job search as part of the application process.¹³ Currently, Florida's TANF Work Verification Plan¹⁴ requires participants to record

⁹ S. 445.024(2), F.S.

¹⁰ 45 C.F.R. § 261.30

¹¹ S. 445.024, F.S.

¹² S. 445.024(1)(a)-(l), F.S.

¹³ Department of Children and Families, Agency Analysis of 2016 House Bill 563 (Nov. 20, 2015)(on file with Children, Families, and Seniors Subcommittee staff).

each on-site job contact and a representative of the employer or RWB provider staff to certify the validity of the log by signing each entry. If the applicant conducts a job search by phone or internet, the activity must be recorded on a job search report form and include detailed, specific information to allow follow-up and verification by the RWB provider staff.¹⁵

Sanctions for Noncompliance

RWBs can sanction TANF recipients who fail to comply with the work requirements by withholding cash assistance for a specified time, which lengthens with repeated lack of compliance. The participant's noncompliance can result in sanctions, as follows:

- First noncompliance - cash assistance is terminated for the full-family for a minimum of 10 days or until the individual complies.
- Second noncompliance - cash assistance is terminated for the full-family for one month or until the individual complies, whichever is later.
- Third noncompliance - cash assistance is terminated for the full-family for three months or until the individual complies, whichever is later.

In State Fiscal Year (SFY) 2015-16, the number of TCA families sanctioned for noncompliance with the work requirements breaks down as follows:

- 16,800 families were sanctioned for a first instance of non-compliance; 6,835, or 40.7 percent, of those families complied with work requirements to be reinstated in the program.¹⁶
- 4,455 families were sanctioned for a second instance of non-compliance; 2,087, or 46.8 percent, of those families complied with the work requirements to be reinstated in the program.¹⁷
- 2,409 families were sanctioned for a third instance of non-compliance; 1,007, or 41.8 percent, of those families complied with the work requirements to be reinstated in the program.¹⁸

For the second and subsequent instances of noncompliance, the TCA for the child or children in a family who are under age 16 may be continued (i.e. the case becomes a child-only case). Any such payments must be made through a protective payee and under no circumstances may temporary cash assistance or food assistance be paid to an individual who has not complied with program requirements. Of those families receiving second and third level sanctions, 1,836, or 26.7 percent, of those who regain eligibility after sanction do so via a child-only case.¹⁹

However, if a participant who was previously sanctioned fully complies with work activity requirements for at least six months, the participant must be reinstated as being in full compliance with program requirements for purpose of sanctions imposed under this section.²⁰ Once the participant has been reinstated, a subsequent instance of noncompliance would be treated as the first violation.

TCA Sanctions Compared to Supplemental Nutrition Assistance Program Sanctions

The Food Assistance Program, Supplemental Nutrition Assistance Program (SNAP), formerly called food stamps, also contains similar sanctions for failure to comply with its Employment and Training Program when receiving benefits. However, the SNAP sanctions are a longer duration. For the first

¹⁴ DEPARTMENT OF CHILDREN AND FAMILIES ECONOMIC SELF-SUFFICIENCY PROGRAM OFFICE, *Temporary Assistance for Needy Families State Plan Renewal October 1, 2014 – September 30, 2017*, Nov. 14, 2014, available at www.dcf.state.fl.us/programs/access/docs/TANF-Plan.pdf (last visited January 30, 2017).

¹⁵ *Supra*, note 13 at 2.

¹⁶ Email from Lindsey Zander, Legislative Specialist, Department of Children and Families, RE: HB 23 (Feb. 3, 2017) (On file with Children, Families, and Seniors Subcommittee staff).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ S. 414.065(1), F.S.

instance of noncompliance, food assistance benefits are terminated for one month or until compliance, whichever is later; for the second instance, food assistance benefits are terminated for three months or until compliance, whichever is later; and for the third instance, food assistance benefits are terminated for six months or until compliance, whichever is longer.²¹

Relative Caregiver Program

The Relative Caregiver Program provides TCA to individuals who meet eligibility rules and have custody of a relative child under age 18 who has been court-ordered dependent by a Florida court and placed in their home by a DCF Child Welfare/Community Based Care contracted provider.²² The intent of the Relative Caregiver Program is to provide relative caregivers who could not otherwise afford to take the child into their homes a means to avoid exposing the child to the trauma of shelter or foster care.

The Relative Caregiver Program provides one type of child-only TCA. Payments are based on the child's age and any countable income.²³ DCF ceases to provide child-only Relative Caregiver Program benefits when the parent or step-parent resides in the home with the relative caregiver and the child. DCF terminates the benefits in this situation based on the requirement in s. 414.095(2)(a)5., F.S., that parents who live with their minor children to be included in the eligibility determination and households containing a parent are considered work-eligible households. Through rule 65C-28.008(2)(d), F.A.C., DCF terminates payments through the Relative Caregiver Program if the parent is in the home for 30 consecutive days.²⁴ However, at least one court has ruled that caregivers may continue to receive the Relative Caregiver Program benefits while the parent resides in the home, because the prohibition against the parent residing in the home is not in statute and DCF rules cannot be used to establish an eligibility guideline not included in the statute. Court orders in such cases result in DCF being required to make disallowed TANF expenditures.

Electronic Benefits Transfer (EBT) Card Program

Electronic Benefits Transfer (EBT) is an electronic system that allows a recipient to authorize transfer of their government benefits, including from the SNAP and TCA programs, to a retailer account to pay for products received.²⁵ The EBT card program is administered on the federal level by the Food and Nutrition Service (FNS) within the United States Department of Agriculture and at the state level by DCF.

In Florida, benefits are deposited into a TCA or SNAP account each month; the benefits in the TCA or SNAP account are accessed using the Florida EBT Automated Community Connection to Economic Self Sufficiency (ACCESS) card.²⁶ Even though the EBT card is issued in the name of an applicant, any eligible member of the household is allowed to use the EBT card.²⁷ Additionally, recipients may designate an authorized representative as a secondary cardholder who can receive an EBT card and access the food assistance account. Authorized representatives are often someone responsible for caring for the recipient. The ACCESS Florida system allows recipients to designate one authorized representative per household.

²¹ Rule 65A-1.605(3), F.A.C.

²² S. 39.5085(2), F.S.

²³ Rule 65C-28.008(2)(g), F.A.C.

²⁴ However, a relative may receive the Relative Caregiver Program payment for a minor parent who is in his or her care, as well as for that minor parent's child, if both children have been adjudicated dependent and meet all other eligibility requirements.

²⁵ U.S. DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICES, *EBT: General Electronic Benefit Transfer (EBT) Information*, <http://www.fns.usda.gov/ebt/general-electronic-benefit-transfer-ebt-information> (last visited January 31, 2017).

²⁶ DEPARTMENT OF CHILDREN AND FAMILIES, *Welcome to EBT*, <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/welcome-ebt> (last visited January 31, 2017).

²⁷ 7 C.F.R. § 273.2(n)(3).

Replacement of EBT Cards

When a recipient loses his or her EBT card, he or she must call the EBT vendor's customer service telephone number to request a replacement EBT card.²⁸ The vendor then deactivates the card, and sends the household a new card.²⁹ Federal regulations allow recipients to request an unlimited number of replacement EBT cards.³⁰ While states cannot limit the number of replacement cards, frequent requests for replacement cards can be an indicator of EBT card fraud, such as trafficking, which occurs when an EBT card containing benefits is exchanged for cash. FNS and DCF consider multiple replacement cards a preliminary indicator of trafficking.

FNS aims to preserve food assistance access for vulnerable populations (e.g., mentally ill and homeless people) who are at risk of losing their cards but who are not committing fraud,³¹ while preventing others from trafficking and replacing their EBT cards. In the interest of preventing fraud, FNS regulations require states to monitor all client requests for EBT card replacements and send a notice, upon the fourth request in a 12-month period, alerting the household that their account is being monitored for potential suspicious activity.³²

In Fiscal Year 2014-15, DCF sent 13,967 letters to households that had requested four or more cards.³³ The letter informs the recipient that the card does not need to be replaced each month and that it is important to keep track of the card.³⁴ The letter also informs the recipient that this number of replacement requests is not normal and that the household's EBT behavior is being monitored.³⁵ Additionally, in Fiscal Year 2014-15, less than one-third of the households who requested four cards (4,653 households) requested yet another replacement card after receiving the letter, and the DCF Office of Public Benefits Integrity referred these cases to the Department of Financial Services Division of Public Assistance Fraud (DPAF) for potential fraud investigation.³⁶

Federal regulations allow states to charge recipients for the cost to replace an excessive³⁷ number of cards. FNS allows states to charge for the cost of the EBT card after four replaced cards. Under DCF's EBT contract, the vendor reports that replacements costs \$3.50 per card.³⁸ A number of other states that charge for replacement cards. Those states charge between \$2.00 to \$5.00³⁹ per replacement card with some exceptions for good cause or financial hardship.

²⁸ The Florida Legislature's Office of Program Policy Analysis & Government Accountability, *Supplemental Nutrition Assistance Program: DCF Has Mechanisms in Place to Facilitate Eligibility, Verify Participant Identity, and Monitor Benefit Use*, Dec. 3, 2015, p. 8 (research memorandum on file with Children, Families, and Seniors Subcommittee staff).

²⁹ *Id.*

³⁰ 7 C.F.R. § 276.4

³¹ 7 C.F.R. § 274.6(b)(5)(iii).

³² 7 C.F.R. § 274.6(b)(6); in Florida, after the EBT vendor provides a fourth replacement card to a household within a 12-month span, DCF sends a letter to the household.

³³ *Supra*, note 28.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Defined by federal regulation as in excess of four cards within a 12-month span.

³⁸ *Supra*, note 28.

³⁹ By way of example, Louisiana and Maryland charge \$2.00, New Mexico charges \$2.50, and Massachusetts charges \$5.00.

Effect of the Bill

Temporary Cash Assistance

Sanctions for Noncompliance

HB 23 increases the sanctions for TCA recipients who are subjected to the work requirements for the first three instances of noncompliance and creates a sanction for the fourth instance of noncompliance. The bill amends s. 414.065(1) and (2), F.S., to:

- Increase the first sanction from 10 days to one month; this sanction remains full-family.
- Increase the second sanction from one month or until compliance, whichever is later, to three months or until compliance, whichever is later; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first three months of the sanction period even if participant takes longer to comply.
- Increase the third sanction from three months or until compliance, whichever is later, to six months or until compliance, whichever is later; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first six months of the sanction period even if participant takes longer to comply.
- Create a fourth sanction of twelve months or until compliance, whichever is later, and that the individual must reapply to the program to resume receiving benefits; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first twelve months of the sanction period even if participant takes longer to comply.

The bill aligns the sanctions for the first through third occurrences of noncompliance with TCA work requirements with the sanctions for noncompliance with the SNAP program's Employment and Training Program. When a participant is sanctioned, DCF must refer him or her to appropriate free and low-cost community services, including food banks. Additionally, the bill clarifies that participants may comply with the work activity requirements before the end of the minimum penalty period.

Work Plan

The bill requires that, prior to receipt of TCA, DEO, DCF, or CareerSource must inform the participant, in plain language, and have the participant agree to, in writing:

- What is expected of the applicant to continue to receive benefits;
- Under what circumstances the applicant would be sanctioned; and
- Potential penalties for noncompliance with work requirements, including how long benefits would not be available to the applicant.

The bill also requires that, prior to receipt of TCA, DEO, DCF, or CareerSource must work with the participant to develop strategies on how to overcome barriers to compliance with the TCA work requirements that the recipient faces.

Relative Caregiver Program

The bill amends s. 39.5085, F.S., to clarify that a caregiver may not receive payment through the Relative Caregiver Program if the parent or step-parent resides in the home with his or her child. Section 414.095(2)(a)5., F.S., requires parents and step-parents who live with their minor children to be included for eligibility determination and TCA regulations that define households containing a parent as a "work eligible" household. This strengthens DCF's policy position and protects the state from potential federal disallowance in the TANF program.⁴⁰

⁴⁰ Department of Children and Families, Agency Bill Analysis for 2017 House Bill 0023, p. 4 (Nov. 30, 2016) (On file with Children, Families, and Seniors Subcommittee Staff).
STORAGE NAME: h0023.CFS
DATE: 2/7/2017

EBT Cards

The bill requires EBT cardholders to pay a fee for the fifth and all subsequent EBT replacement cards requested within a 12-month span. DCF currently sends a letter with the fourth replacement card informing the cardholder that his or her case is being monitored for potential trafficking activity. By charging the fee beginning with the fifth card, DCF may inform the cardholder in the letter that it sends with the fourth replacement card about replacement fees for subsequent new cards.

The bill allows DCF to deduct the fee from the cardholder's benefits and provides for a waiver of the fee upon a showing of good cause, such as that the card malfunctioned or the fee would cause extreme financial hardship.

B. SECTION DIRECTORY:

Section 1: Amends s. 414.069, F.S., relating to noncompliance with work requirements.

Section 2: Amends s. 445.024, F.S., relating to work requirements.

Section 3: Amends s. 402.82, F.S., relating to electronic benefits transfer program.

Section 4: Amends s. 39.5085, F.S., relating to the Relative Caregiver Program.

Section 5: Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. See fiscal comments.

2. Expenditures:

The bill reduces annual expenditures for DCF through increased TCA work penalty periods; the total estimated annual savings from all work penalty period increases is \$2,758,265.⁴¹

DCF estimates that information technology system changes will be needed in the FIS and FLORIDA (Florida Online Recipient Integrated Data Access) systems to collect payment for replacement cards through the participant's benefits.⁴² DCF's EBT vendor, FIS, estimates a cost of \$105,280 to complete necessary system programming to implement the EBT replacement card provisions in the bill.⁴³ DCF estimates a cost of \$847,080 to create a new fourth level TCA work sanction and implement new EBT card replacement provisions.⁴⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁴¹ Id. at p. 5.

⁴² Id.

⁴³ Id. at p. 7.

⁴⁴ Id.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

DCF may charge the costs of replacement cards against an EBT cardholder's benefits. The cardholder's benefits will be reduced by the cost to replace his or her EBT card. Assuming a replacement cost of \$5.00 per card, the estimated card replacement fees recouped could approach \$325,000 based replacing 65,000 cards.⁴⁵ Fee collections could diminish as the new process affects customer behaviors.⁴⁶

D. FISCAL COMMENTS:

The bill contains a placeholder appropriation.

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

⁴⁵ Id.

⁴⁶ Id.

1 A bill to be entitled
 2 An act relating to public assistance; amending s.
 3 414.065, F.S.; revising penalties for noncompliance
 4 with work requirements for temporary cash assistance;
 5 limiting the receipt of child-only benefits during
 6 periods of noncompliance with work requirements;
 7 providing applicability of work requirements before
 8 expiration of the minimum penalty period; requiring
 9 the Department of Children and Families to refer
 10 sanctioned participants to appropriate free and low-
 11 cost community services, including food banks;
 12 amending s. 445.024, F.S.; requiring the Department of
 13 Economic Opportunity, in cooperation with CareerSource
 14 Florida, Inc., and the Department of Children and
 15 Families, to develop and implement a work plan
 16 agreement for participants in the temporary cash
 17 assistance program; requiring the plan to identify
 18 expectations, sanctions, and penalties for
 19 noncompliance with work requirements; amending s.
 20 402.82, F.S.; requiring the Department of Children and
 21 Families to impose a replacement fee for electronic
 22 benefits transfer cards under certain circumstances;
 23 amending s. 39.5085, F.S.; revising eligibility
 24 guidelines for the Relative Caregiver Program with
 25 respect to relative and nonrelative caregivers;
 26 providing an appropriation; providing an effective

27 date.

28

29 Be It Enacted by the Legislature of the State of Florida:

30

31 Section 1. Subsection (1) and paragraph (a) of subsection
32 (2) of section 414.065, Florida Statutes, are amended to read:

33 414.065 Noncompliance with work requirements.—

34 (1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS
35 AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The
36 department shall establish procedures for administering
37 penalties for nonparticipation in work requirements and failure
38 to comply with the alternative requirement plan. If an
39 individual in a family receiving temporary cash assistance fails
40 to engage in work activities required in accordance with s.
41 445.024, the following penalties shall apply. Prior to the
42 imposition of a sanction, the participant shall be notified
43 orally or in writing that the participant is subject to sanction
44 and that action will be taken to impose the sanction unless the
45 participant complies with the work activity requirements. The
46 participant shall be counseled as to the consequences of
47 noncompliance and, if appropriate, shall be referred for
48 services that could assist the participant to fully comply with
49 program requirements. If the participant has good cause for
50 noncompliance or demonstrates satisfactory compliance, the
51 sanction may ~~shall~~ not be imposed. If the participant has
52 subsequently obtained employment, the participant shall be

53 counseled regarding the transitional benefits that may be
 54 available and provided information about how to access such
 55 benefits. The department shall administer sanctions related to
 56 food assistance consistent with federal regulations.

57 (a)1. First noncompliance: temporary cash assistance shall
 58 be terminated for the family for a minimum of 1 month ~~10 days~~ or
 59 until the individual who failed to comply does so, whichever is
 60 later. Upon meeting this requirement, temporary cash assistance
 61 shall be reinstated to the date of compliance or the first day
 62 of the month following the penalty period, whichever is later.

63 2. Second noncompliance:

64 a. Temporary cash assistance shall be terminated for the
 65 family for 3 months ~~1 month~~ or until the individual who failed
 66 to comply does so, whichever is later. The individual shall be
 67 required to comply with the required work activity upon
 68 completion of the 3-month penalty period before reinstatement of
 69 temporary cash assistance. Upon meeting this requirement,
 70 temporary cash assistance shall be reinstated to the date of
 71 compliance or the first day of the month following the penalty
 72 period, whichever is later.

73 b. Upon the second occurrence of noncompliance, temporary
 74 cash assistance for the child or children in a family who are
 75 under age 16 may be continued for the first 3 months of the
 76 penalty period through a protective payee as specified in
 77 subsection (2).

78 3. Third noncompliance:

79 a. Temporary cash assistance shall be terminated for the
 80 family for 6 ~~3~~ months or until the individual who failed to
 81 comply does so, whichever is later. The individual shall be
 82 required to comply with the required work activity upon
 83 completion of the 6-month ~~3-month~~ penalty period, before
 84 reinstatement of temporary cash assistance. Upon meeting this
 85 requirement, temporary cash assistance shall be reinstated to
 86 the date of compliance or the first day of the month following
 87 the penalty period, whichever is later.

88 b. Upon the third occurrence of noncompliance, temporary
 89 cash assistance for the child or children in a family who are
 90 under age 16 may be continued for the first 6 months of the
 91 penalty period through a protective payee as specified in
 92 subsection (2).

93 4. Fourth noncompliance:

94 a. Temporary cash assistance shall be terminated for the
 95 family for 12 months or until the individual who failed to
 96 comply does so, whichever is later. The individual shall be
 97 required to comply with the required work activity upon
 98 completion of the 12-month penalty period and reapply before
 99 reinstatement of temporary cash assistance. Upon meeting this
 100 requirement, temporary cash assistance shall be reinstated to
 101 the first day of the month following the penalty period.

102 b. Upon the fourth occurrence of noncompliance, temporary
 103 cash assistance for the child or children in a family who are
 104 under age 16 may be continued for the first 12 months of the

105 penalty period through a protective payee as specified in
 106 subsection (2).

107 5. The sanctions imposed under subparagraphs 1.-4. do not
 108 prohibit a participant from complying with the work activity
 109 requirements during the penalty periods imposed by this
 110 paragraph.

111 (b) If a participant receiving temporary cash assistance
 112 who is otherwise exempted from noncompliance penalties fails to
 113 comply with the alternative requirement plan required in
 114 accordance with this section, the penalties provided in
 115 paragraph (a) shall apply.

116 (c) When a participant is sanctioned for noncompliance
 117 with this section, the department shall refer the participant to
 118 appropriate free and low-cost community services, including food
 119 banks.

120
 121 If a participant fully complies with work activity requirements
 122 for at least 6 months, the participant shall be reinstated as
 123 being in full compliance with program requirements for purpose
 124 of sanctions imposed under this section.

125 (2) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR
 126 CHILDREN; PROTECTIVE PAYEES.—

127 (a) Upon the second or subsequent ~~third~~ occurrence of
 128 noncompliance, subject to the limitations in paragraph (1) (a),
 129 temporary cash assistance and food assistance for the child or
 130 children in a family who are under age 16 may be continued. Any

131 such payments must be made through a protective payee or, in the
 132 case of food assistance, through an authorized representative.
 133 Under no circumstances shall temporary cash assistance or food
 134 assistance be paid to an individual who has failed to comply
 135 with program requirements.

136 Section 2. Subsections (3) through (7) of section 445.024,
 137 Florida Statutes, are renumbered as subsections (4) through (8),
 138 respectively, and a new subsection (3) is added to that section,
 139 to read:

140 445.024 Work requirements.—

141 (3) WORK PLAN AGREEMENT.—For each individual who is not
 142 otherwise exempt from work activity requirements, but before a
 143 participant may receive temporary cash assistance, the
 144 Department of Economic Opportunity, in cooperation with
 145 CareerSource Florida, Inc., and the Department of Children and
 146 Families, must:

147 (a) Inform the participant, in plain language, and require
 148 the participant to assent to, in writing:

149 1. What is expected of the participant to continue to
 150 receive temporary cash assistance benefits.

151 2. Under what circumstances the participant would be
 152 sanctioned for noncompliance.

153 3. Potential penalties for noncompliance with work
 154 requirements in s. 414.065, including how long benefits would
 155 not be available to the participant.

156 (b) Work with the participant to develop strategies to

157 assist the participant in overcoming obstacles to compliance
 158 with the work activity requirements.

159 Section 3. Subsection (4) of section 402.82, Florida
 160 Statutes, is renumbered as subsection (5), and a new subsection
 161 (4) is added to that section, to read:

162 402.82 Electronic benefits transfer program.—

163 (4) The department shall impose a fee for the fifth and
 164 each subsequent request for a replacement electronic benefits
 165 transfer card that a participant requests within a 12-month
 166 period. The fee must be equal to the cost to replace the
 167 electronic benefits transfer card. The fee may be deducted from
 168 the participant's benefits. The department may waive the
 169 replacement fee upon a showing of good cause, such as the
 170 malfunction of the card or extreme financial hardship.

171 Section 4. Paragraph (a) of subsection (1) and paragraph
 172 (a) of subsection (2) of section 39.5085, Florida Statutes, are
 173 amended to read:

174 39.5085 Relative Caregiver Program.—

175 (1) It is the intent of the Legislature in enacting this
 176 section to:

177 (a) Provide for the establishment of procedures and
 178 protocols that serve to advance the continued safety of children
 179 by acknowledging the valued resource uniquely available through
 180 grandparents, relatives of children, and specified nonrelatives
 181 of children pursuant to sub-subparagraph (2)(a)1.c. ~~subparagraph~~
 182 ~~(2)(a)3.~~

183 (2)(a) The Department of Children and Families shall
 184 establish, ~~and operate,~~ and implement the Relative Caregiver
 185 Program ~~pursuant to eligibility guidelines established in this~~
 186 ~~section as further implemented~~ by rule of the department.

187 1. The Relative Caregiver Program shall, within the limits
 188 of available funding, provide financial assistance to:

189 a.1- Relatives who are within the fifth degree by blood or
 190 marriage to the parent or stepparent of a child and who are
 191 caring full-time for that dependent child in the role of
 192 substitute parent as a result of a court's determination of
 193 child abuse, neglect, or abandonment and subsequent placement
 194 with the relative under this chapter.

195 b.2- Relatives who are within the fifth degree by blood or
 196 marriage to the parent or stepparent of a child and who are
 197 caring full-time for that dependent child, and a dependent half-
 198 brother or half-sister of that dependent child, in the role of
 199 substitute parent as a result of a court's determination of
 200 child abuse, neglect, or abandonment and subsequent placement
 201 with the relative under this chapter.

202 c.3- Nonrelatives who are willing to assume custody and
 203 care of a dependent child in the role of substitute parent as a
 204 result of a court's determination of child abuse, neglect, or
 205 abandonment and subsequent placement with the nonrelative
 206 caregiver under this chapter. The court must find that a
 207 proposed placement under this subparagraph is in the best
 208 interest of the child.

209 2. The relative or nonrelative caregiver may not receive a
 210 Relative Caregiver Program payment if the parent or stepparent
 211 of the child resides in the home. However, a relative or
 212 nonrelative may receive the payment for a minor parent who is in
 213 his or her care and for the minor parent's child, if both the
 214 minor parent and the child have been adjudicated dependent and
 215 meet all other eligibility requirements. If the caregiver is
 216 currently receiving the payment, the payment must be terminated
 217 no later than the first day of the following month after the
 218 parent or stepparent moves into the home. Before the payment is
 219 terminated, the caregiver must be given 10 days' notice of
 220 adverse action.

221
 222 The placement may be court-ordered temporary legal custody to
 223 the relative or nonrelative under protective supervision of the
 224 department pursuant to s. 39.521(1)(b)3., or court-ordered
 225 placement in the home of a relative or nonrelative as a
 226 permanency option under s. 39.6221 or s. 39.6231 or under former
 227 s. 39.622 if the placement was made before July 1, 2006. The
 228 Relative Caregiver Program shall offer financial assistance to
 229 caregivers who would be unable to serve in that capacity without
 230 the caregiver payment because of financial burden, thus exposing
 231 the child to the trauma of placement in a shelter or in foster
 232 care.

233 Section 5. For fiscal year 2017-2018, the sum of \$XXX,XXX
 234 in nonrecurring funds from the Federal Grants Trust Fund is

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235 | appropriated to the Department of Children and Families for the
236 | purpose of performing the technology modifications necessary to
237 | implement changes to the disbursement of temporary cash
238 | assistance benefits and the replacement of electronic benefits
239 | transfer cards pursuant to this act.

240 | Section 6. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Children, Families &
 2 Seniors Subcommittee
 3 Representative Harrell offered the following:

Amendment (with title amendment)

Remove lines 159-163 and insert:

Section 3. Paragraphs (g), (h), and (i) are added to subsection (4) of section 402.82, Florida Statutes, and a new subsection (5) is added to that section, to read:

402.82 Electronic benefits transfer program.—

(4) Use or acceptance of an electronic benefits transfer card is prohibited at the following locations or for the following activities:

(g) Medical marijuana treatment centers or dispensing organizations.

(h) Cigar stores and stands, pipe stores, smoke shops and



Amendment No. 1

17 tobacco shops.

18 (i) Business establishments primarily engaged in the
19 practice of body piercing, branding or tattooing.

20 (5) The department shall impose a fee for the fifth and
21

21

22

23

T I T L E A M E N D M E N T

24

Remove line 20 and insert:

25

402.82, F.S.; prohibiting the use of an electronic benefits

26

transfer card at specified locations; requiring the Department

27

of Children and

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 151 Proceedings Involving Minors or Persons With Intellectual Disabilities
SPONSOR(S): Civil Justice & Claims Subcommittee; Brodeur
TIED BILLS: None **IDEN./SIM. BILLS:** SB 416

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	15 Y, 0 N, As CS	Stranburg	Bond
2) Children, Families & Seniors Subcommittee		Tuszynski	Brazzell
3) Judiciary Committee			

SUMMARY ANALYSIS

Current law authorizes a trial court to enter any order necessary to protect a child victim or witness, a person who has an intellectual disability, or a sexual offense victim or witness of any age from severe emotional or mental harm due to the presence of the defendant. The court may also allow the use of service or therapy animals in proceedings involving a sexual offense to assist a child victim or witness or a sexual offense victim or witness. The support animals must be evaluated and registered according to national standards. Local courts allowing such animals typically develop detailed requirements for their use.

This bill:

- Expands the list of proceedings in which support animals may be used to include any proceeding involving child abuse, abandonment, or neglect;
- Expands the categories of allowable animals to include a "facility dog";
- Allows a court to set any conditions it finds just and appropriate when taking the testimony of a person who has an intellectual disability, including the use of a service animal, therapy animal, or facility dog;
- Removes the requirement for registration of an animal pursuant to national standards, and replaces it with a requirement that an animal be trained and evaluated according to industry standards; and
- Provides definitions for the terms "facility dog," "service animal," and "therapy animal."

The bill does not appear to have a fiscal impact on state or local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 92.55, F.S., authorizes a court to enter any order necessary to protect victims and witnesses who are under the age of 18, victims or witnesses to a sexual offense, or any person who has an intellectual disability from severe emotional or mental harm while testifying in any court proceeding. An order may limit the number of victim or witness interviews, prohibit depositions, require submission of questions prior to examination, set the place and conditions for conducting proceedings, and allow or prohibit a person's attendance at a proceeding.¹ When deciding whether to enter such an order, the court must consider certain factors, such as the victim's or witness's age, the nature of the offense, and the degree of emotional trauma that will result as a consequence of the defendant's presence.²

In cases involving a sexual offense, the court may also allow the use of a service or therapy animal when taking the testimony of a child victim or witness or a sexual offense victim or witness of any age.³ When making this decision, the court must consider the age of the person testifying, the rights of the parties to the litigation, and any other relevant factor that would facilitate testimony.⁴

Section 92.55, F.S., does not define the terms "service animal" or "therapy animal."

- The term "service animal" is used by the Americans with Disabilities Act and has a specific meaning in federal law as a dog that is individually trained to do work or perform tasks for a person with disabilities, such as a guide dog for individuals with visual impairment or blindness or a seizure response dog for individuals with seizure disorders. The definition specifically excludes dogs whose sole function is to provide comfort or emotional support.⁵ "Service animal" is also defined in s. 413.08, F.S., expanding slightly on the federal definition.⁶ Section. 92.55, F.S., does not cite to either definition.
- The term "therapy animal" is generally used to describe an animal that is not a service animal and provides emotional comfort and support to humans. Therapy animals may be trained, evaluated, and certified to provide therapeutic contact to improve physical, social, emotional, and/or cognitive functioning.⁷

At least four circuit courts have implemented formal animal support programs. The Second Circuit began its animal support program in 2006,⁸ the Fifth⁹ and Ninth¹⁰ Circuits did so in 2014, and the

¹ Section 92.55(4), F.S.

² Section 92.55(3), F.S.

³ Section 92.55(5), F.S.

⁴ *Id.*

⁵ U.S. Department of Justice, Disability Rights Section, Service Animals, https://www.ada.gov/service_animals_2010.htm (last accessed February 6, 2017).

⁶ Florida Statute allows miniature horses as service animals, and that an animals' crime-deterrent effect is not considered a job or task.

⁷ ADA Network Service Animals and Emotional Support Animals, <https://adata.org/publication/service-animals-booklet> (last accessed February 6, 2017).

⁸ Courthouse Therapy Dog History and Statistics, Florida's Second Judicial Circuit, <http://2ndcircuit.leoncountyfl.gov/petHistory.php> (last accessed February 1, 2017).

⁹ Circuit Court of the Fifth Judicial Circuit of the State of Florida, Administrative Order No. A-2014-3, *Administrative Order Establishing a Certified Therapy Dog Program for the Fifth Judicial Circuit*, January 16, 2014.

¹⁰ Circuit Court of the Ninth Judicial Circuit, in and for Orange County, FL, Administrative Order No. 2014-26, *Administrative Order Establishing a Certified Therapy Dog Program (K-9th Circuit Program)*, Orange County, October 27, 2014.

Twentieth Circuit¹¹ started one in 2016. The Thirteenth Circuit has also allowed a facility dog in its courtrooms for children in dependency cases.¹²

Scientific research shows that animals significantly reduce physiological and behavioral distress in children, including a lowering of heart rate and blood pressure.¹³ The Second,¹⁴ Fifth,¹⁵ and Ninth¹⁶ Circuit courts all report that the use of animals during proceedings has generally had a positive effect and led the courts to be better equipped to make decisions.

While some Circuit courts have officially authorized the use of therapy dogs in their courtrooms, facility dogs are beginning to be used as well.¹⁷ "Facility dogs are expertly trained dogs who partner with a facilitator working in a health care, visitation or education setting . . . A well-mannered and highly trained facility dog encourages feelings of calm and security for clients in a visitation setting such as a courtroom."¹⁸ Certain providers breed and train dogs specifically for facility settings, such as Canine Companions for Independence,¹⁹ Assistance Dogs of the West,²⁰ and Support Dogs, Inc.²¹

Without a national governing organization for these animals, guidelines have been set by national and international organizations within the therapy animal²² and facility dog industry²³ that are followed as industry standards. For example, the Courthouse Dogs Foundation provides assistance and training for agencies that want to create facility dog programs specific to courtrooms.²⁴ The Courthouse Dogs Foundation requires a dog to be a graduate of an assistance dog school that is an accredited member of Assistance Dogs International (ADI).²⁵ ADI accredits and regularly assesses assistance dog organizations and programs to ensure high standards.²⁶

At least three of the circuit courts that currently provide therapy animal programs have approved providers listed on their webpages. The Second circuit has approved the Tallahassee Memorial Healthcare Animal Therapy Program²⁷ and both the Fifth and Ninth circuits have approved Companions for Courage.^{28,29}

¹¹ In the Twentieth Judicial Circuit in and for the State of Florida, Administrative Order No. 12.7, *Twentieth Judicial Circuit Certified Therapy Dog Program for Dependency Cases*, June 8, 2016.

¹² Voices for Children, Meet Tibet, Florida's First Courthouse Dog, <http://vfccgall.org/tibet/> (last accessed February 6, 2017).

¹³ Nagengast, Sunny L., et al., "The effects of the presence of a companion animal on physiological arousal and behavioral distress in children during a physical examination" *Journal of Pediatric Nursing* 12, 323-330 (1997).

¹⁴ *Supra* note 8.

¹⁵ Fifth Judicial Circuit Therapy Dog Program, Fifth Judicial Circuit Court of Florida, <http://www.circuit5.org/c5/programs-services/therapy-dog-program/> (last accessed February 1, 2017).

¹⁶ K9th Circuit Program, Ninth Judicial Circuit Court of Florida, <http://ninthcircuit.org/about/programs/k9th-circuit-program> (last accessed February 1, 2017).

¹⁷ *Supra* note 12.

¹⁸ Canine Companions, Facility Dogs, <http://www.cci.org/assistance-dogs/Our-Dogs/facility-dogs.html> (last accessed February 6, 2017).

¹⁹ *Id.*

²⁰ Assistance Dogs of the West, Our Puppies, <https://assisteddogsofthewest.org/our-pups/> (last accessed February 6, 2017).

²¹ Support Dogs, Inc. Frequently Asked Questions, <https://www.supportdogs.org/who-we-help/frequently-asked-questions/> (last accessed February 6, 2017).

²² Therapy Dogs International, Testing Requirements, <http://www.tdi-dog.org/HowToJoin.aspx?Page=Testing+Requirements> (last accessed February 6, 2017).

²³ Assistance Dogs International, Facility Dogs Training Standards, <http://www.assisteddogsinternational.org/standards/assistance-dogs/standards-for-dogs/training-standards-for-facility-dogs/>

²⁴ Courthouse Dogs Foundation, Expert education and guidance for legal professionals, <http://courhousedogs.org/index.html> (last accessed February 6, 2017).

²⁵ Assistance Dogs International, <http://www.assisteddogsinternational.org/> (last accessed February 6, 2017).

²⁶ *Id.*

²⁷ Florida Second Judicial Circuit, Courthouse Therapy Dogs, <http://2ndcircuit.leoncountyfl.gov/petTherapy.php> (last accessed February 6, 2017).

²⁸ Fifth Judicial Circuit Court of Florida, Fifth Judicial Circuit Therapy Dog Program, <http://www.circuit5.org/c5/programs-services/therapy-dog-program/> (last accessed February 6, 2017).

²⁹ Ninth Judicial Circuit Court of Florida, K9th Circuit Program, <http://www.ninthcircuit.org/about/programs/k9th-circuit-program> (last accessed February 6, 2017).

Current law lists "proceedings involving a sexual offense" as the only proceedings in which the use of service or therapy animals are permitted. However, circuit courts are also using these animals in cases involving the abuse, abandonment, or neglect of children. These child abuse, abandonment, or neglect cases may be criminal in nature or be assigned to the dependency court. During these proceedings, children may be called to testify about traumatic abuse, neglect, or exploitation they have suffered.

Effect of Proposed Changes

The bill amends s. 92.55, F.S., to:

- Expand the list of proceedings in which support animals may be used to include any proceeding involving child abuse, abandonment, or neglect;
- Expand the categories of allowable animals to include a "facility dog";
- Allow a court to set any conditions it finds just and appropriate when taking the testimony of a person who has an intellectual disability, including the use of a service animal, therapy animal, or facility dog;
- Remove the requirement for registration of an animal pursuant to national standards, and replace it with a requirement that an animal be trained and evaluated according to industry standards;
- Define "facility dog" as a dog trained, evaluated, and certified pursuant to industry standards to provide unobtrusive emotional support in facility settings;
- Define "service animal" as having the same meaning as provided in s. 413.08, F.S.; and
- Define "therapy animal" as an animal that is not considered a service animal but that has been trained, evaluated, and certified as appropriate to provide animal therapy.

B. SECTION DIRECTORY:

Section 1 amends s. 92.55, F.S., related to judicial proceedings.

Section 2 provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 26, 2017, the Civil Justice & Claims Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment adds definitions for the terms "facility dog," "service animal," and "therapy animal," and makes grammatical corrections. This analysis is drafted to the committee substitute as passed by the Civil Justice & Claims Committee.

1 A bill to be entitled
 2 An act relating to proceedings involving minors or
 3 certain other persons; amending s. 92.55, F.S.;
 4 providing that judges may allow the use of certain
 5 service animals, therapy animals, or facility dogs in
 6 proceedings involving abuse, abandonment, or neglect;
 7 allowing such animals to be used when taking the
 8 testimony of certain other persons; providing
 9 definitions; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (5) of section 92.55, Florida
 14 Statutes, is amended to read:

15 92.55 Judicial or other proceedings involving victim or
 16 witness under ~~the age of 18~~ years of age, a person who has an
 17 intellectual disability, or a sexual offense victim or witness;
 18 special protections; use of ~~registered~~ service animals, ~~or~~
 19 therapy animals, or facility dogs.-

20 (5) The court may set any other conditions it finds just
 21 and appropriate when taking the testimony of a victim or witness
 22 under 18 years of age, a person who has an intellectual
 23 disability, or a sexual offense victim or witness ~~child victim~~
 24 ~~or witness or a sexual offense victim or witness~~, including the
 25 use of a service animal, ~~or~~ therapy animal, or facility dog ~~that~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 ~~has been evaluated and registered according to national~~
 27 ~~standards,~~ in any proceeding involving a sexual offense or child
 28 abuse, abandonment, or neglect.

29 (a) When deciding whether to permit a victim or witness
 30 under 18 years of age, a person who has an intellectual
 31 disability, or a sexual offense victim or witness ~~child victim~~
 32 ~~or witness or sexual offense victim or witness~~ to testify with
 33 the assistance of a ~~registered~~ service animal, ~~or~~ therapy
 34 animal, or facility dog, the court shall consider the age of the
 35 child victim or witness, the age of the sexual offense victim or
 36 witness at the time the sexual offense occurred, the interests
 37 of the child victim or witness or sexual offense victim or
 38 witness, the rights of the parties to the litigation, and any
 39 other relevant factor that would facilitate the testimony by the
 40 victim or witness under 18 years of age, a person who has an
 41 intellectual disability, or a sexual offense victim or witness
 42 ~~child victim or witness or sexual offense victim or witness.~~

43 (b) For purposes of this subsection the term:

44 1. "Facility dog" means a dog that has been trained,
 45 evaluated, and certified as a facility dog pursuant to industry
 46 standards and provides unobtrusive emotional support to children
 47 and adults in facility settings.

48 2. "Service animal" has the same meaning as provided in s.
 49 413.08.

50 3. "Therapy animal" means an animal that is not considered

51 a service animal but has been trained and passed a nationally
52 recognized skills and aptitude evaluation by an organization
53 that certifies animals as appropriate to provide animal therapy.

54 Section 2. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Children, Families &
 2 Seniors Subcommittee
 3 Representative Brodeur offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsection (5) of section 92.55, Florida
 8 Statutes, is amended to read:

9 92.55 Judicial or other proceedings involving victim or
 10 witness under the age of 18, a person who has an intellectual
 11 disability, or a sexual offense victim or witness; special
 12 protections; use of ~~registered service or~~ therapy animals or
 13 facility dogs.-

14 (5) The court may set any other conditions it finds just
 15 and appropriate when taking the testimony of a ~~child victim or~~
 16 ~~witness or a sexual offense victim or witness~~ victim or witness



Amendment No. 1

17 under the age of 18, a person who has an intellectual
18 disability, or a sexual offense victim or witness, including the
19 use of a ~~service or~~ therapy animal or facility dog ~~that has been~~
20 ~~evaluated and registered according to national standards,~~ in any
21 proceeding involving a sexual offense or child abuse,
22 abandonment, or neglect.

23 (a) When deciding whether to permit a victim or witness
24 under the age of 18, a person who has an intellectual
25 disability, or a sexual offense victim or witness ~~child victim~~
26 ~~or witness or sexual offense victim or witness~~ to testify with
27 the assistance of a ~~registered service or~~ therapy animal or
28 facility dog, the court shall consider the age of the child
29 victim or witness, the age of the sexual offense victim or
30 witness at the time the sexual offense occurred, the interests
31 of the child victim or witness or sexual offense victim or
32 witness, the rights of the parties to the litigation, and any
33 other relevant factor that would facilitate the testimony by the
34 victim or witness under the age of 18, person who has an
35 intellectual disability, or sexual offense victim or witness
36 ~~child victim or witness or sexual offense victim or witness.~~

37 (b) For purposes of this subsection the term:

38 1. "Facility dog" means a dog that has been trained,
39 evaluated, and certified as a facility dog pursuant to industry
40 standards and provides unobtrusive emotional support to children
41 and adults in facility settings.

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Office of Substance
Abuse and Mental
Health Overview



Office of Substance Abuse and Mental Health Overview

John N. Bryant, Assistant Secretary for Substance Abuse
and Mental Health

Children, Families and Seniors Subcommittee
February 9, 2017



Key Functions

- Serves as the State Mental Health Authority, Single State Agency for Substance Abuse Services, and State Methadone Authority.
- Designates receiving facilities for involuntary assessments under the Baker and Marchman Acts.
- Operates three (3) State Mental Health Treatment Facilities, contracts for four (4) State Mental Health Treatment Facilities, including the Sexually Violent Predator Program.
- Allocates state and federal funds, and contracts with Behavioral Health Managing Entities (7) to support a statewide system of care for behavioral health prevention, treatment, and recovery services.

Key Functions

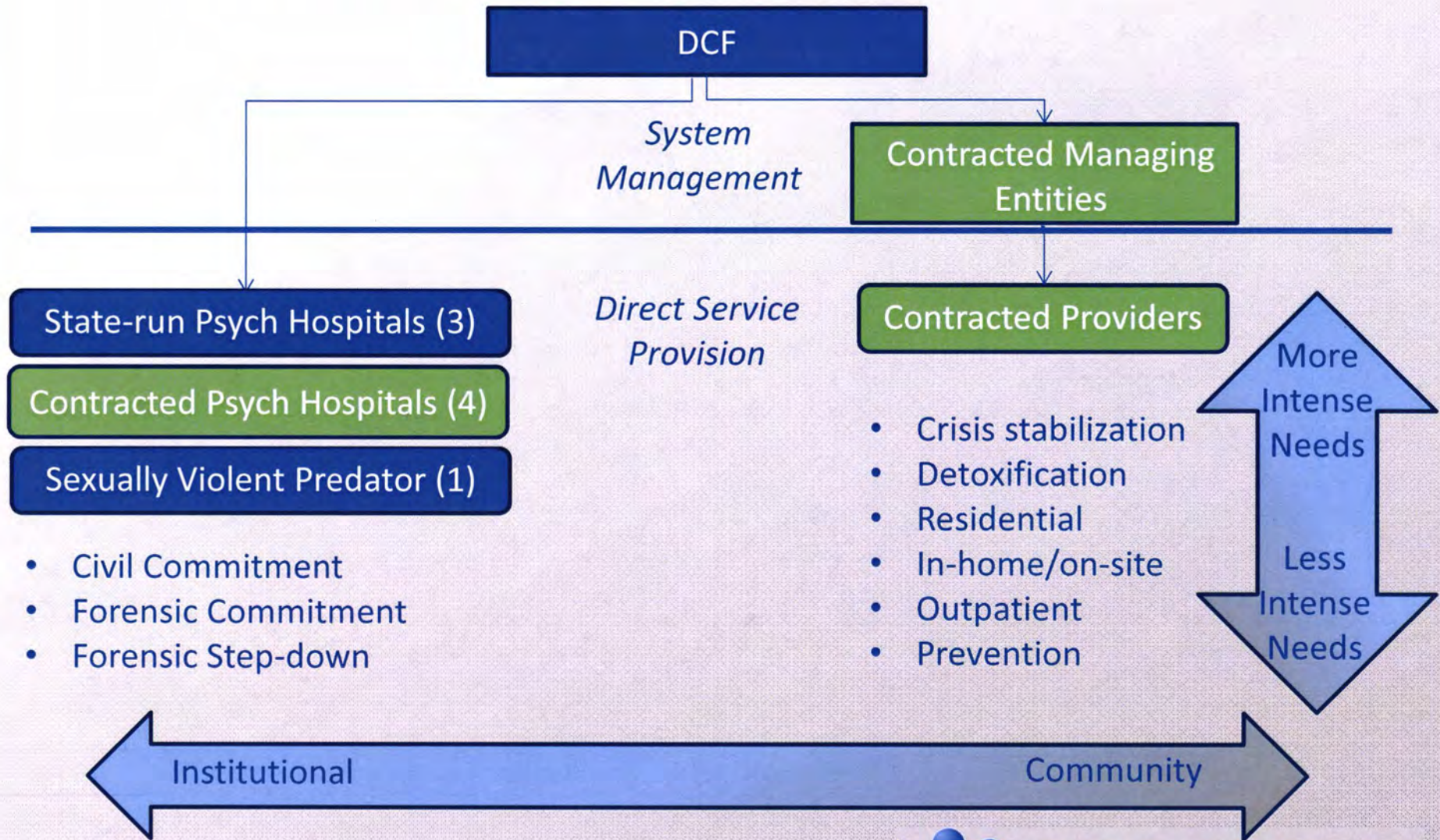
- Establishes performance and financial accountability outcomes and measures to ensure success.
- Manages contracts for limited services (i.e., CAT teams, residential treatment programs) and workforce development.
- Promulgates and implements administrative rules and statewide policies.
- Licenses and regulates all substance abuse providers in the state.

Populations Served

- Authorized by state and federal law to serve a broad cross section of Florida's population, including:
 - Children with or at risk of developing Serious Emotional Disturbances or Emotional Disturbances
 - Adults with Serious Mental Illness (including forensic involved)
 - Persons in crisis
 - Persons with co-occurring mental illness and substance use disorders
 - Persons with or at risk of developing substance use disorders
- Priority populations:
 - Pregnant women and parents with substance use disorders
 - Intravenous drug users



DCF System Elements



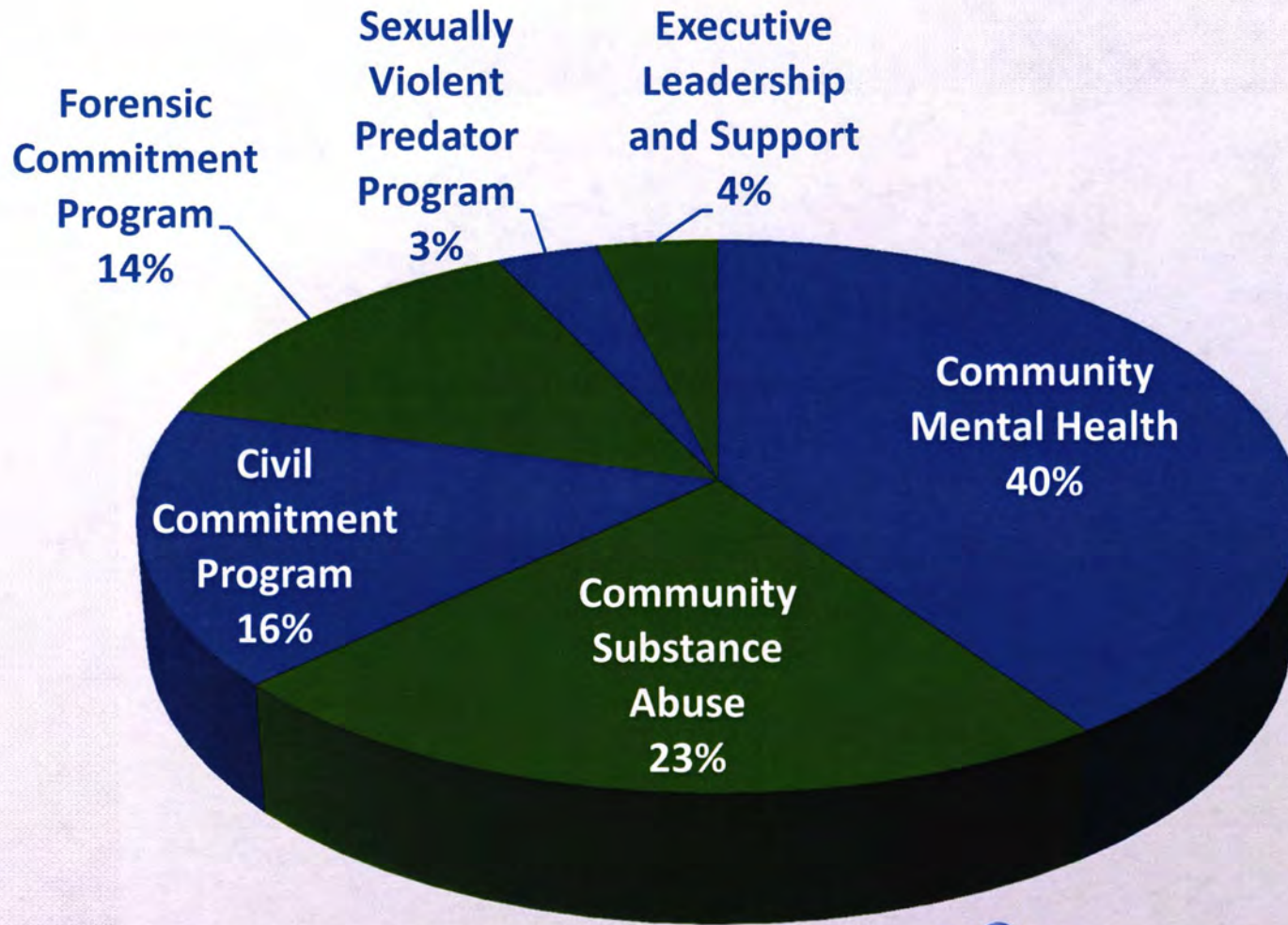
SAMH by Funding Source (FY 2016-2017)*

Program	General Revenue	Block Grant	Federal Grants	Other Funds	Total
Community Mental Health Services	\$356,164,797	\$32,978,141	\$30,595,791	\$7,798,621	\$427,537,350
Civil Commitment Program	\$92,731,779	-	\$74,257,224	\$5,559,917	\$172,548,920
Forensic Commitment Program	\$140,029,637	-	\$2,481,073	\$1,996,014	\$144,506,724
Sexually Violent Predator Program	\$34,509,878	-	-	-	\$34,509,878
Community Substance Abuse Services	\$106,100,154	\$122,746,012	\$2,554,954	\$7,843,460	\$239,244,580
Executive Leadership and Support Services	\$28,044,688	\$5,265,948	\$5,800,990	\$1,133,083	\$40,244,709
Total	\$757,580,933	\$160,990,101	\$109,889,042	\$24,331,095	\$1,058,592,161

*Includes funding appropriated from the Operations and Maintenance Trust Fund, Welfare Transition Trust Fund, Administrative Trust Fund, and Tobacco Settlement Trust Fund.



SAMH Budget FY16-17



People Served in FY15-16

All Substance Abuse and Mental Health (SAMH) Services

Community SAMH	Forensic Commitment	Civil Commitment	Sexually Violent Predator Program
303,768	3,071	1,900	687

Community Services by Program Area

Adult Community Mental Health	Children Community Mental Health	Adult Community Substance Abuse	Children Community Substance Abuse
169,856	43,133	83,798	27,079

Managing Entities

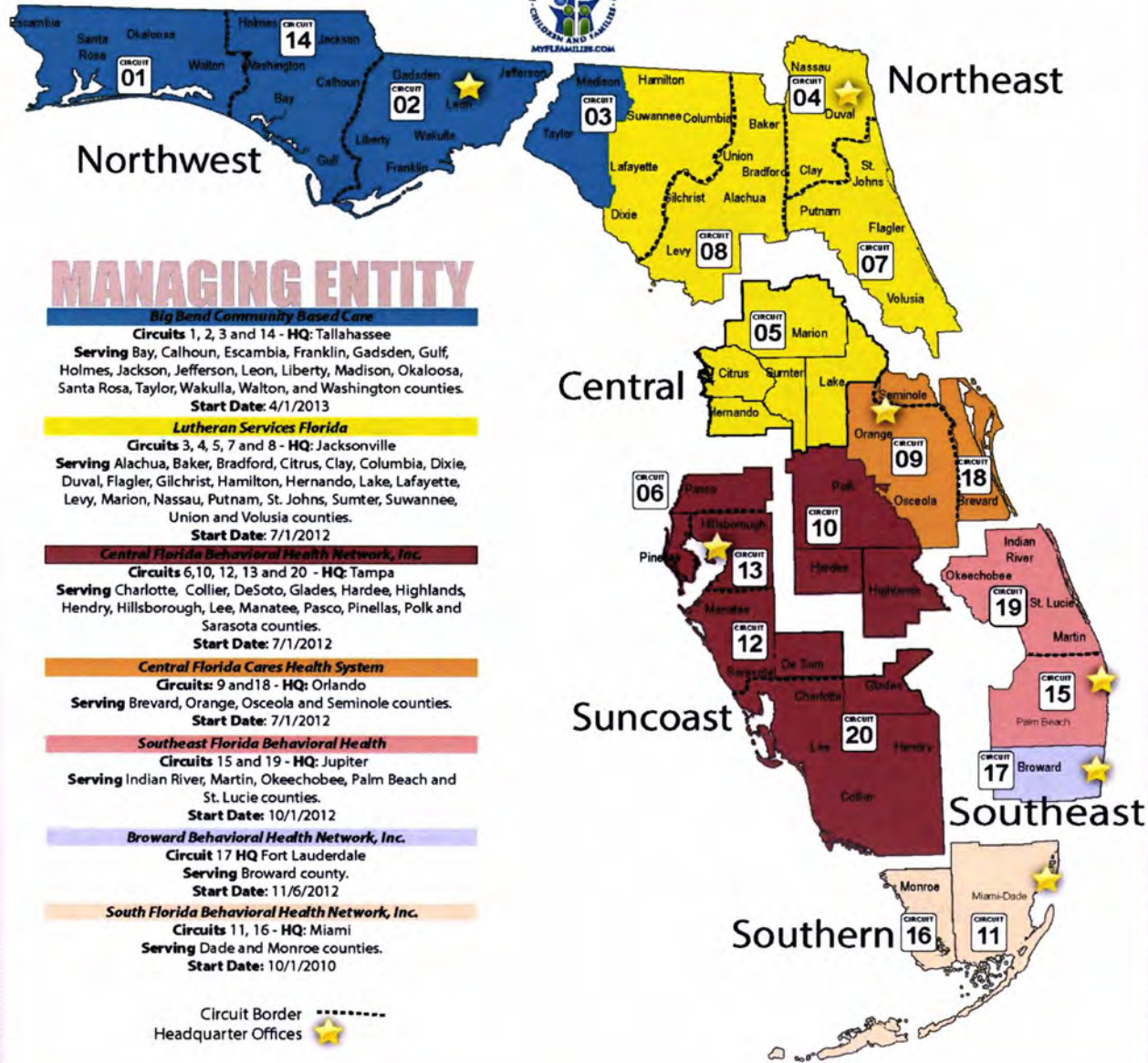
- Section 394.9082, F.S., authorizes DCF to contract with managing entities for the management of behavioral health services.
- DCF contracts with 7 managing entities to:
 - Plan, coordinate, and contract for the delivery of community SAMH services
 - Improve access to care
 - Promote service continuity
 - Purchase services
 - Support efficient and effective delivery of services



Managing Entities Duties

- Conduct community needs assessments
- Develop provider network and service array
- Assist counties to develop a designated receiving system
- Promote care coordination activities
- Collaborate with stakeholders (housing, private receiving facilities, local government, criminal justice, child welfare)
- Monitor network providers
- Provide data and implement shared data systems



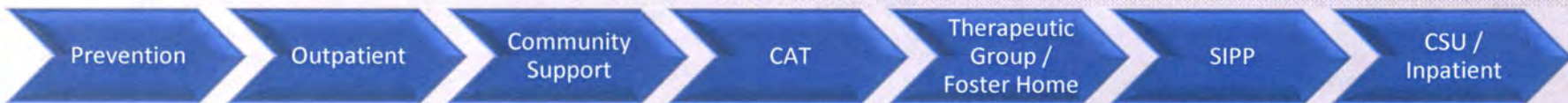


SAMH Community Services Array

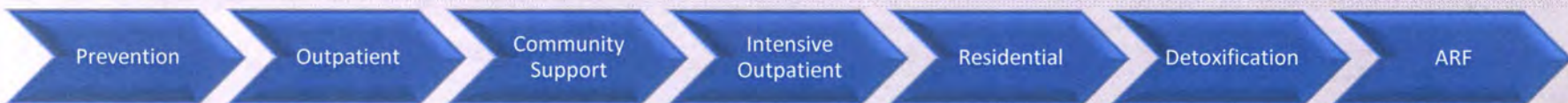
- **Adult Mental Health**



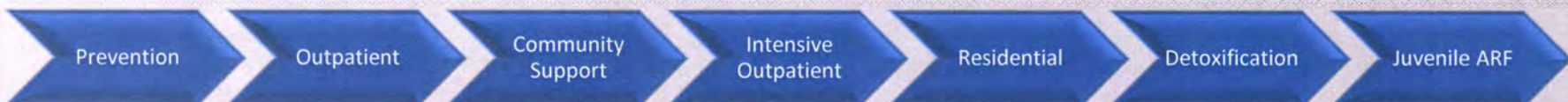
- **Children's Mental Health**



- **Adult Substance Abuse**



- **Children's Substance Abuse**



SAMH Strategic Initiatives

- Access to Quality, Recovery-Oriented Systems of Care
- Care Coordination and Housing
- Community-Based Health Promotion and Prevention
- Child Welfare, Substance Abuse and Mental Health Integration
- State Hospital improved quality of care – “One Hospital” initiative
- Information Management
- Forensic Waitlist Management

State Mental Health Treatment Facilities

The Baker Act identifies DCF as Florida's Mental Health Authority responsible for all Mental Health Treatment Facilities.

The Forensic Client Services Act requires DCF to maintain separate and secure forensic facilities and programs to provide treatment and training of defendants who:

- Have been charged with a felony and who have been found to be incompetent to proceed (ITP) due to their mental illness or
- Who have been acquitted of a felony by reason of insanity (NGI).



State Mental Health Treatment Facilities

Facility	Type	Capacity	Operation	Budget FY 16-17
Florida State Hospital	Civil Forensic	490 494	State-operated	\$114,277,432
Northeast Florida State Hospital	Civil	613	State-operated	\$68,093,336
North Florida Evaluation and Treatment Center	Forensic	193	State-operated	\$23,236,796
Treasure Coast Forensic Treatment Center	Forensic	224	Correct Care Recovery Solutions, Inc.	\$23,338,151
South Florida State Hospital	Civil	341	Correct Care Recovery Solutions, Inc.	\$36,040,086*
South Florida Evaluation and Treatment Center	Forensic	249	Correct Care Recovery Solutions, Inc.	\$27,816,264*
West Florida Community Care Center	Civil	80	Lakeview Center, Inc.	\$5,823,881

*Bond payment for SFSH and SFETC is not included in the appropriations above. Bond payment for South Florida State Hospital is \$3.2 million annually and the bond payment for South Florida Evaluation and Treatment Center is \$3.4 million annually.



Baker Act and Marchman Act

Acts are generally intended to:

- Protect individuals' civil rights
- Provide appropriate treatment
- Protect individual and public safety



Baker Act Overview

- Enacted in 1971 to provide the least restrictive form of intervention and Bill of Rights for people who have mental illnesses.
- Provides for voluntary and involuntary examination and treatment, including inpatient and outpatient.
- Amended in 2016 by SB 12 to provide for the creation of designated receiving systems



Baker Act Involuntary Examination Criteria

Person has a mental illness and as a result:

- Refused voluntary examination; or
- Is unable to determine that examination is necessary; and without care or treatment
- Is likely to suffer from neglect or refuse to care for self, posing a real and present threat of harm to self; or
- Is likely to cause serious bodily harm to self or others in the near future.



Marchman Act Overview

- Enacted in 1993 to address services and individual rights for adults and children with substance abuse issues.
- Provides for voluntary and involuntary examination and treatment, including inpatient and outpatient.
- Amended in 2016 by SB 12 to align more closely with the Baker Act.

Marchman Act Involuntary Admission Criteria

Good faith reason to believe the person is substance abuse impaired or has a co-occurring mental health disorder, and as result:

- Has lost power of self-control with respect to substance abuse, and
- Is in need of treatment and, due to substance abuse impairment,
 - cannot appreciate the need for services or make a rational decision; or
 - without care or treatment is likely to suffer from neglect or refuse to care for self, posing a real and present threat of harm
 - *Mere refusal to receive services is not evidence of lack of judgment.*



Types of Emergency Treatment Programs

Types	Act	Capacity
Crisis Stabilization Unit (CSU)	Baker	Statewide (51)
Hospital	Both	Statewide (86 designated as a receiving facility)
Detoxification Unit	Marchman	Statewide (116 licensed sites)
Addictions receiving facility	Marchman	Limited (20)
Central receiving facility	Both	Orange & Osceola Counties
Triage center	Both	Lee County
Mobile crisis unit	Both	Broward, Palm Beach, Hillsborough, Orange, Martin, Indian River, Okeechobee, St. Lucie



Questions?



2016 SB 12: Overview
and Implementation
Update



Senate Bill 12: Overview and Implementation Update

John N. Bryant, Assistant Secretary for Substance Abuse
and Mental Health

Children, Families and Seniors Subcommittee
February 9, 2017

Senate Bill 12 Overview

Senate Bill (SB) 12 is the result of a two-year effort to:

- Reduce barriers identified by law enforcement, courts and families in accessing mental health and substance abuse treatment.
- Develop a system of care that is more responsive to Florida's most vulnerable.
- Coordinate care across community agencies.
- Address the need for a clearly-identified system of acute-care services.



Major Provisions

- Statewide Assessment of Behavioral Health Services
- Coordinated System of Care
- Medicaid Targeted Case Management Credentialing
- Changes to Baker and Marchman Acts
- Changes to the Criminal Justice, Mental Health and Substance Abuse Reinvestment Grant Program



Major Provisions

- Revenue Maximization
- Consolidated License Plan between DCF and AHCA
- Re-write of s. 394.9082, F.S., pertaining to Managing Entities (MEs)
- Substance Abuse Advance Directives Workgroup and Recommendation



Statewide Assessment of Behavioral Health Services

SB 12 amended *s. 394.4573, F.S.*, to require an annual assessment of behavioral health services to include:

- The extent to which designated receiving systems function as no-wrong-door models.
- The availability of treatment services that use recovery-oriented and peer-involved approaches.
- The availability of less restrictive services.
- The use of evidenced-informed practices.
- The needs assessments conducted by managing entities.



Statewide Assessment of Behavioral Health Services Update

- The 2016 assessment was submitted to Governor Scott and the Legislature and published on the Department's website.
- The top 3 recommendations of the assessment included:
 - Improve housing resources.
 - Reduce wait lists and improve access to care, specifically the time between assessments and first service.
 - Build on current efforts to transform Florida's behavioral health system from acute care to recovery and wellness in the community.

Coordinated System of Care

SB 12 amends s. 394.4573, F.S., to outline the essential elements of a coordinated system of care to include:

- Community interventions (i.e., prevention, primary behavioral health care, supportive services, crisis response, and diversion programs)
- Designated receiving systems
- Transportation plans
- Comprehensive service array – introduces care coordination services, among others



Receiving Systems

Counties and MEs are required to plan and implement a receiving system that consists of one or more facilities serving a defined geographic area by July 1, 2017.

- Responsible for assessment and evaluation (voluntary and involuntary), and for treatment, stabilization or triage for individuals with mental health and/or substance use disorders.
- Must function as a no-wrong-door model and be accompanied by a transportation plan.
- Must keep and accurate inventory of providers, their capacity and limitations, and transportation plan available for first responders.



Receiving Systems Update

- The Florida Legislature allocated \$10M in FY15-16 and \$20M in FY16-17 (recurring) for Central Receiving System (CRS) grants
- DCF has issued 9 CRS awards to providers for Managing Entity implementation. All subcontracts have been executed.
 - 5 CRS projects are fully operational and providing services.
 - 4 are in various stages of operational start up and are projected to initiate services between February and June 2017.
- Types:
 - 6 are for Central Receiving Facilities (single point of entry)
 - 2 are for Coordinated Receiving Systems (multiple linked points of entry)
 - 1 is for a Tiered Receiving System (multiple entry points, some of which provide limited or specialized services)



Receiving Systems Update

- DCF is responsible for designating Receiving Systems, based on plans submitted by counties
- Counties are at different stages of planning
- To date, no receiving system plans or new transportation plans have been submitted to DCF (CRS grant awards do not constitute designation)
- Several counties have existing transportation plans



Care Coordination

- SB12 defines care coordination as:
 - Deliberate and planned organizational relationships and service procedures
 - Engaging with individuals not connected with services to ensure successful linkages
- DCF must define the priority populations that will benefit from care coordination.
- DCF must promote the coordination of care and provide technical assistance.

Care Coordination Update

DCF has:

- Defined priority populations for care coordination
- Developed and published a care coordination framework with stakeholders (MEs, providers, persons served)
- Amended ME contracts to include care coordination expectations and provided funds for housing and care coordinators
- Revised direct contracts with providers to require care coordination with the MEs
- Contracted for trainings and a six month learning collaborative focused on care coordination



Case Manager Certification

SB 12 requires that persons providing or supervising Medicaid-funded case management hold valid certification from a DCF approved credentialing entity.

- The Florida Certification Board is in the process of developing the certification.
- DCF is revising Rule 65E-4 to implement this provision.
 - The target date for posting Notices of Rulemaking (language becomes available to the public) is April 1, 2017.



Baker Act and Marchman Act

SB 12 made a number of changes to each statute, including:

- Prohibiting certain individuals from being selected as a person's representative or guardian advocate
- Adding guardian advocates to the Marchman Act
- Changing transportation requirements from nearest receiving facility to a transportation plan supporting the designated receiving system
- Changing and clarifying court procedures



Baker Act and Marchman Act Update

- DCF contracted with the Florida Certification Board to develop trainings related to the changes in the two Acts.
 - The revised Baker Act Guardian Advocate training course is completed
 - The Marchman Act Guardian Advocate training course is under development, with a target publication date of March 31, 2017.
- DCF is revising rules to implement the provisions of SB 12, including 65D-30, 65E-4, 65E-5, 65E-9, and 65E-12.
 - The target date for posting Notices of Rulemaking (language becomes available to the public) is April 1, 2017.
- DCF revised Baker Act forms and developed Marchman Act forms that can be accessed on the Department's website.
- DCF contracted with the Florida Mental Health Institute to receive and maintain forms on behalf of DCF and prepare the annual report to the Legislature.



Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program

- SB 12 expanded the interagency review committee for the program and eligibility of who can apply.
- DCF has implemented the review committee.
- DCF has awarded 14 three-year grants for implementation and expansion and 7 one-year planning grants.
- The grants are in the process of being executed between now and July 1, 2017.

Consolidated Licensure

- SB12 directed DCF and AHCA to develop a plan of options for a consolidated licensure process for providers who are dually-licensed under Chapters 394 and 397, F.S.
- The Consolidated Licensure report is available on the Department's website. It explores three options:
 - AHCA assumes licensure for all behavioral health providers,
 - DCF assumes licensure for all behavioral health providers, or
 - AHCA and DCF each develop a consolidated licensure process within existing statutory authority and using current resources.

Managing Entity Governance

SB 12 substantially re-words s. 394.9082, F.S.

- Provides for a regional structure to facilitate a coordinated system of care.
- Revises DCF contract requirements for the MEs
- Requires the creation of a single client identifier
- Requires development of person-centered outcome measures
- Requires development of an Acute Care Services Utilization Database



Managing Entity Governance (cont'd)

- Adds responsibilities to the MEs; examples include:
 - Conduct triennial needs assessments
 - Determine optimal array of services & develop provider network
 - Coordinate with juvenile and criminal justice, child welfare, housing, primary health care, homeless systems, etc.
 - Attain accreditation by June 30, 2019
 - Develop enhancement plans describing strategies to enhance services and address priority needs

Managing Entity Governance Update

- All ME contracts have been updated to incorporate new standards.
- DCF has identified accreditations.
- DCF is working with MEs to develop consumer-centered outcome measures.
- New data system is under development to be able to better account for person-specific service utilization, outcomes and cost.
- Unique client identifier acceptance and adoption of assignment process by MEs and providers is scheduled for March 1st.
- The acute care services utilization database is developed and first upload from MEs is scheduled for February 18th.



Substance Abuse Advance Directives

- SB 12 directed DCF to form a workgroup to study the feasibility of establishing advance directives for individuals with substance use disorders.
- The report was submitted to the Governor and the Legislature and is posted on the Department's website.
- The workgroup recommended that a specific advance directive for substance use disorder is not needed.
- Persons with substance use disorders may already execute advance directives under Chapter 765.

Ongoing Activities

- Implementation of new data system, including unique client identifier
- Update of administrative rules implementing statutory changes
- Designation of receiving systems
- Case management certification
- Marchman Act and Baker Act trainings
- Accreditation of MEs
- Implementation of the acute care services utilization database
- Development of performance measures



Questions?

