

March 28, 2012

2011-2012 Legislative Session

Legislative News is a publication prepared and distributed by the South Carolina Department of Mental Health (DMH) Office of Public Affairs to keep you informed of bills introduced in the General Assembly that may affect the DMH, mental health, health care issues, or employee issues. In addition, we will provide budget information and general news from the General Assembly. You can also access the complete bills online by clicking the link at the end of each description, OR visiting <http://www.scstatehouse.gov>.

This publication is also available on the DMH Internet and Intranet sites. However, if you do not have access to the site and wish to receive a copy of the update, call us, and we will send you one in the mail. If at any time you have questions or need more information about bills or other legislative issues, contact the Office of Public Affairs by phone, at (803) 898-8581 or e-mail, at TLL06@scdmh.org.

Budget Update

The House of Representatives passed its recommended FY13 State budget March 15, 2012. The budget deliberations have now moved to the State Senate. The House version of the budget includes over \$17 million in additional recurring funds for the Department of Mental Health, including funding for the agency's top two budget requests: Full funding for the operation of the Sexually Violent Predator Treatment Program (\$7.36 million) and additional recurring funds to maintain existing agency services (\$7.0 million).

In addition, the House budget includes recurring funding to enable DMH to:

- fund an account to pay for needed medical care for DMH patients referred to outside providers (\$750,000);
- expand Homeshare residential placements for adults and youth-in-transition (\$600,000);
- maintain and increase Emergency Department telepsychiatry consultations (\$500,000);
- continue emergency Room avoidance efforts (\$500,000);
- increase community residential options (\$350,000);
- expand the use of CMHCs internal use of telepsychiatry (\$200,000); and
- restore the Team Advocacy contract with Protection & Advocacy for People with Disabilities, Inc. (\$50,000).

The House also included \$1 million in non-recurring funding for DMH to address some of its many deferred maintenance needs.

Senate Bills (with companion House bills) – Click the Bill number to view full text.

S 187 Nursing Homes (Rose) This bill provides that nursing homes must carry at least one million dollars in comprehensive general liability insurance to obtain a license and notify the Department of Health and Environmental Control upon cancellation of a general liability policy. It further provides that a nursing home license shall be revoked upon failure to maintain general liability insurance. Referred to Committee on Medical Affairs, 1/11/11. Medical Affairs Subcommittee met on 2/17/11, and carried the bill over.

S 294 Joint Council on Children and Adolescents (Fair, Hutto, Jackson and Leventis)

H 3205 Joint Council on Children and Adolescents (Brady, Spires, Butler Garrick and Erickson)

Both bills establish the Joint Council On Children and Adolescents. The bills set forth the Council's members, powers, and duties; including activities to improve access to services for children, adolescents and their families.

S 294 Referred to Subcommittee of Judiciary: Sheheen (ch), Knotts, Campsen, Lourie, Campbell 1/09/12.

H 3205 Referred to Committee on Judiciary, 1/11/11.

S 771 Hospitals' Liability (Peeler)

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H 4408 Liabilities Regarding Hospitals' Actions (Harrison, H.B. Brown, G.R. Smith, Knight, Atwater, Branham, Viers, Bannister, Dillard, Erickson, Hamilton, Hearn, Hosey, Limehouse, D.C. Moss, Patrick, Pinson, Sandifer, G.M. Smith, J.R. Smith, Stringer, Toole, Willis, and Bingham)

These bills provide protection from liability for hospitals and employees taking part in peer review and certain other quality assurance type activities if the participants act without malice. The bills also prohibit disclosure or discovery of certain data and documents generated by these processes except in certain defined circumstances.

S771 Referred to Senate Committee on Medical Affairs 4/6/11, received a favorable report with amendment 3/22/12.

H 4408 Referred to House Committee on Medical Affairs 3/27/12.

S 859 Residential Treatment Facilities (RTFs) for Children and Adolescents that Prohibit Licensure by DHEC (Rose and Fair)

H 4148 RTFs for Children & Adolescents that Prohibit Licensure by DHEC (Limehouse, Murphy and Horne)

These bills provide new DHEC licensing requirements for RTFs including: various licensing levels; regulations for security and safety requirements related to the type of children served by a facility (criminal backgrounds, behavior problems, potential for violence); restrictions on how close RTFs can be to schools, parks etc.; facility notice to law enforcement when a child leaves a facility without permission; and similar provisions. H 4148 also has a complete ban on admission of out-of-state clients who would be required to register as sex offenders.

S 859 Referred to Senate Committee on Medical Affairs 4/28/11, received a favorable report with amendments 2/21/2012, Referred to Senate Committee on Judiciary 2/29/12.

H 4148 Referred to Committee on Medical, Military, Public and Municipal Affairs 4/28/11.

S 1015 Health Care Provider Information Disclosure (Hayes, Courson, Knotts and Lourie)

H 4569 Adult Care Consent Act (J.E. Smith)

These bills instruct health care providers to give patients an opportunity to authorize designated family members or other people to receive certain information and participate in the patients' treatment. Among other things, the bills tell providers when they must offer the authorization to patients and specify information that must be included in the authorization. The bills also amend the Adult Health Care Consent Act, section 44-66-20, by adding definitions.

S 1015 Referred to Committee on Medical Affairs 1/10/12, received a favorable report with amendments 1/19/12.

H 4569 Referred to Committee on Medical, Military, Public, & Municipal Affairs, 1/11/12.

S 1127 Departments of state government and their governing authority (Peeler)

This bill eliminates the at-large seat on the DMH commission and adds a 7th congressional district seat.

Referred to Committee on Medical Affairs 1/24/2012, received a favorable report with amendments 2/21/2012, Referred to Committee on Judiciary 2/29/2012.

House Bills – Click the Bill number to view full text.

H 3016 Commission on Disabilities & Special Needs (Harrison, Horne, G.R. Smith, G.M. Smith and Clyburn)

Among other things, this bill "cleans up" the language of the DDSN statute and changes the DDSN's procedure for making regulations. The bill requires fingerprinting and criminal background checks for employees of "direct care agencies." The bill adds DMH operated and contracted day programs to the list of "direct care agencies" who must comply with the background check requirements. Referred to Committee on Judiciary, 1/11/11.

H 3150 Behavioral Health Services Act (G.R. Smith, Harrison and G.M. Smith) and

H 3229 Behavioral Health Services Act (Harrison, G.R. Smith and G.M. Smith)

The bills create the Department of Behavioral Health Services under the executive branch of state government and transfer DAODAS and DMH to the new department. Both bills define the new Department's powers and duties; including developing, overseeing and administering a state-wide unified system for the delivery of coordinated, client-centered behavioral health services. The bills also create an Advisory Committee and define the committee's duties and membership.

H 3150 Referred to Committee on Judiciary, 1/11/11.

H 3229 Referred to Committee on Judiciary, 1/11/11. House read third time and sent to Senate 4/14/11.

Introduced by Senate 4/19/11 and referred to Committee on Medical Affairs.

H 3196 Use of Restraints on Juveniles (Brady, Spires, Toole, Butler Garrick, Erickson and Long)

This bill states that juveniles may not be restrained (handcuffed, shackled, etc.) during a court proceeding unless the court first makes certain specific findings (restraints are necessary to prevent harm and no less restrictive alternatives are available). Referred to Committee on Judiciary, 1/11/11.

H 3421 Division of Alcohol and Other Drug Abuse Services (White)

This restructuring bill makes DOADAS a division of DMH. The bill outlines the new division's functions and duties within DMH. Referred to Committee on Judiciary, 1/25/11.

H 4499 Assisted Living Facilities Liability Insurance (J.R. Smith)

This bill requires assisted living facilities (community residential care facilities) to maintain liability insurance for one million dollars and requires the facility to provide proof of coverage to DHEC when the facility applies for a license. Referred to the Medical, Military, Public and Municipal affairs 1/10/12.

H 4513 Adult Protection Coordinating Council (Harrison)

This bill makes changes to the membership of the Adult Protection Coordinating Council (APCC) and other technical corrections. The bill also adds a duty that the APCC's prepare an annual report to the Council and the General Assembly outlining its activities and accomplishments for the calendar year. Referred to Committee on Judiciary 1/10/12, received favorable report with amendment from Judiciary Committee 3/21/12. Read first time and referred to Committee on Medical Affairs 3/27/12.

H 4516 Abuse on Vulnerable Adults (Harrison)

This bill transfers certain investigatory duties from the Long Term Care Ombudsman to DMH. Specifically, SLED must refer all noncriminal reports of abuse, neglect, and exploitation of vulnerable adults in the Sexually Violent Predator facilities to the DMH Client Advocacy Program for investigation. Referred to Committee on Judiciary 1/10/12.