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Legislative news

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March 27, 2013

2013-2014 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

In September, 2012, the Department submitted its Fiscal Year 2013 -2014 budget request for approximately \$12.5 million in additional recurring State funds, and approximately \$60 million in one-time funds for capital improvements and other needs. The specifics of the Department's request are listed below.

- Sustainability of Mental Health Services - \$9,416,420
- SCDMH must replace non-recurring funds from Medicaid cost settlements – which will be ending – with State recurring appropriations by FY 2015.
- Sexually Violent Predator Treatment Program - \$1,406,533
- The census of the program is steadily increasing, and the additional amount requested represents the increased personnel and operating costs anticipated to treat the expanding population
- Forensic Inpatient Services -- \$1,200,000
- Due to increased numbers of commitments, the agency has had difficulty timely admitting individuals committed by the criminal courts, resulting in a growing waiting list. The agency plans to use a currently vacant building to create additional residential capacity for forensic patients who no longer require hospital level care, but who continue to require a structured, supervised, assisted-living program.
- Telepsychiatry Program Sustainability - \$500,000
- Because of its success and its promise as a model of cost-effectiveness and efficiency in the future delivery of healthcare, SCDMH has received continuing grant funding for the program from The Duke Endowment. However, it has been understood that eventually grant funding for the program will end. The additional requested State funds are necessary to ensure the financial viability of the program following the expected reduction or elimination of further grant funding.

Capital and One-Time Funding Requests

Capital:

- Santee-Wateree MHC Construction - \$9,856,000
- Anderson-Oconee-Pickens MHC Construction - \$9,592,000
- Catawba MHC Construction - \$10,580,000
- Community Buildings Deferred Maintenance - \$3,393,630
- Harris HVAC Renovations - \$7,100,000
- Inpatient and Support Buildings Deferred Maintenance - \$9,049,000
- Roddey Nursing Home FRTW Roof Replacement - \$3,700,000
- Columbia Area MHC Carter Street Renovations - \$2,500,000

One-Time Funding:

- Inpatient Electronic Medical Record - \$4,905,000
- Pharmaceutical Automated Dispensing Machines - \$1,000,000
- Law Enforcement Vehicles, 5 new - \$126,005
- Physical Plant vehicles for patient transport - \$556,391

The Governor issued her budget recommendations for Executive agencies in December, 2012. The Governor recommended increased recurring State appropriations for DMH of over \$11.3 million, in addition to \$1.5 million in capital funding and over \$1.5 million of other one-time funding.

The State House of Representatives adopted a State budget on March 13, which included the following increases for DMH:

- Sustainability of Mental Health Services - \$8,256,120
- Sexually Violent Predator Treatment Program - \$1,406,533
- Forensic Inpatient Services -- \$1,200,000
- Telepsychiatry Program Sustainability - \$500,000
- Capital and Deferred Maintenance Needs - \$3,500,000
- School Based Mental Health Services - \$800,000 (non-recurring)

Consideration of the State budget has now moved to the State Senate.

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

[S117](#) Adult Healthcare Consent Act (Hayes, Courson and O'Dell)

[H3366](#) Medical Information Disclosure (J.E. Smith, Long, Delleney, Skelton, Huggins, Allison, Toole and Felder)

Both bills amend the code of laws to require a health care provider to give a patient an opportunity to authorize disclosure of certain information to designated family members or representatives and to authorize the involvement of these family members or representatives in the treatment of the patient; to specify when the opportunity to sign an authorization must be provided to a patient; to specify the contents of the authorization; and to define "patient" and "treatment".

S117 – Referred to Committee on Medical Affairs, 1/8/13. Received favorable report with amendment, 3/21/13.

H3366 – Referred to Committee on Medical, Military, Public and Municipal Affairs 1/17/13.

[S413](#) Handguns (Gregory, Campsen, Courson, Hembree, Pinckney, Malloy, Jackson, Hayes, Bennett, Lourie, L. Martin, Fair, Davis, Ford and Massey)

[H3560](#) Possession of a Handgun or Concealed Weapons Permit by The Mentally Ill (Tallon, Harrell, Quinn, Stavrinakis, Patrick, Allison, McCoy, Pitts, Taylor, H.A. Crawford, Simrill, J.R. Smith, Crosby, Brannon, V.S. Moss, G.R. Smith, Henderson, Delleney, Cole, McEachern, Barfield, Ridgeway, Stringer, Nanney, R.L. Brown, Wood, Daning, Erickson, Clemmons, Powers Norrell, Funderburk, Mitchell, Merrill, Kennedy, D.C. Moss, Gagnon, Bannister, Atwater, Rivers, K.R. Crawford, Ballentine, Owens, Bingham and Forrester)

This legislation establishes a confidential process for compiling and transmitting information to SLED about persons who have been adjudicated mentally incapacitated or committed to a mental institution. SLED transmits this information to National Instant Criminal Background Check System. NICS is used to determine if a person is disqualified from purchasing a firearm. NICS prohibits a person adjudicated mentally incapacitated or committed to a mental institution from possessing or acquiring a handgun. The legislation also establishes a judicial process for persons prohibited from possessing firearms, due solely to an adjudication as mentally incapacitated or commitment to a mental institution, to obtain removal of the disqualifications.

S413 – Referred to Committee on Judiciary, 2/20/13. Referred to subcommittee (Gregory (ch), Hutto, Malloy, Campsen, Bennett, Hembree), 2/21/13.

H3560 –Referred to Committee on Judiciary, 2/19/13.

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

3024 Child abuse (McCoy, Henderson and Long)

This legislation requires any person in this state to report suspected child abuse or neglect. The legislation also makes certain conforming changes.

Referred to Committee on Judiciary 1/8/13.

3054 Behavioral Health Services Act Of 2013 (Rep. G. R. Smith)

The legislation enacts the "Behavioral Health Services Act of 2013". It eliminates the Department of Alcohol and Other Drug Abuse Services and the Department of Mental Health and consolidates their powers and duties within a newly-created Department of Behavioral Health Services, which is charged with developing and implementing a plan for the coordinated care and unified delivery of behavioral health services.

Referred to Committee on Judiciary 1/8/13.

3098 Long-Term Care Facilities (Spires)

This bill requires the resident of a community residential care facility to provide the facility administrator written notice of the resident's intent to voluntarily relocate to another community residential care facility. The written notice must be given not less than thirty days before the resident relocates. The facility administrator may charge the equivalent of thirty days occupancy for failure to give this notice.

Referred to Committee on Medical, Military, Public and Municipal Affairs 1/8/13.

3103 Physician's Patient Records Act (Crosby, Daning and M.S. McLeod)

This bill requires a physician, upon the written request of a patient or a patient's representative, to transmit the patient's medical record to a hospital where the patient has been, or is scheduled to be, hospitalized. The physician is also must transmit a summary of the treatment the physician rendered on a form developed and published by the Department of Health and Environmental Control.

Referred to Committee on Medical, Military, Public and Municipal Affairs 1/8/13.

3124 Protections for Reporting Child Abuse or Neglect (Bingham, Taylor, Long and M.S. McLeod)

This legislation provides a civil cause of action for reinstatement and back pay against any employer who dismisses, demotes, suspends, or otherwise disciplines or discriminates against an employee for reporting child abuse or neglect.

Referred to Committee on Judiciary 1/8/13.

3142 Sex Offenders and Procedures for Admittance as a Resident to a Facility (Rutherford and M.S. McLeod)

This legislation provides that a facility considering the admittance of a person as a resident of the facility shall determine whether the person is a registered sex offender by following certain procedures. If the facility determines the person is a registered sex offender, it must provide certain notice to the other residents of the facility or, if applicable, their legal guardians. Failure to comply with either of these requirements constitutes a knowing and willful neglect of the safety of the vulnerable adults residing in the facility.

Referred to Committee on Judiciary 1/8/13.

3163 Freedom of Information Act (Taylor, G.R. Smith and Long)

This bill revises the Freedom of Information Act (FOIA), which establishes an individual's rights to inspect or obtain copies of public records and other government documents. The changes would include: provisions for the electronic transmission and online posting of public records; making available documents from meetings during the previous six-month period; revising the required timeline for complying with a FOIA to no later than 30 calendar days from the date of the original request (or 45 days in some cases). The legislation also revises the fees that a public body is allowed to charge for complying with FOIA requests by: disallowing copy charges for records that are stored or transmitted in an electronic format; capping fees at the prevailing commercial rate

for producing copies; and, prohibiting a public body from charging for staff time associated with gathering or reproducing the records. The legislation allows a deposit of up to 25% of the total cost for reproduction of the records to be required prior to the public body searching for or making copies of records. A citizen of this state may apply to the appropriate magistrate court for specific enforcement of a request if the public body from which the records are requested fails to comply with the time limits.

Referred to Committee on Judiciary 1/8/13, received favorable committee report with amendment 2/27/13. Recommitted to Committee on Judiciary 3/20/13.

3166 Medicaid Eligibility as Provided by the Federal Patient Protection and Affordable Care Act (Sellers, R.L. Brown and M.S. McLeod)

This bill provides that, beginning January 1, 2014, an adult sixty five years of age or younger whose income is at or below one hundred thirty eight percent of the federal poverty level is eligible for Medicaid as provided for in the federal Patient Protection and Affordable Care Act and its amendments.

Referred to Committee on Ways and Means 1/8/13.

3167 Participation by South Carolina in a Medicaid Expansion (Sellers, R.L. Brown and M.S. McLeod)

This concurrent resolution declares that participation by the state of South Carolina in Medicaid expansion as provided by the federal Patient Protection and Affordable Care Act is necessary to the state's economic growth and welfare and to the health, wellbeing, and livelihood of hundreds of thousands of South Carolinians.

Referred to Committee on Ways and Means 1/8/13.

3320 Nursing Homes (Hart)

This bill requires a nursing home to obtain and carry a liability insurance policy in the amount of at least one hundred thousand dollars.

Referred to Committee on Medical, Military, Public and Municipal Affairs 1/15/13.

3365 Mental Health Counseling (Govan, Jefferson and Williams)

This legislation requires that each public school employ a licensed psycho-educational specialist certified in school psychology by the Department of Education on a full-time basis to help school personnel identify students in need of mental health counseling, promote awareness of mental health issues and the availability of treatment, screen and identify students for mental health issues, and provide appropriate mental health counseling and make referrals for appropriate social services counseling.

Referred to Committee on Education and Public Works 1/17/13.

3371 Mandatory Reporting of Child Abuse and Neglect (Clemmons)

This legislation provides that a person required to report child abuse or neglect must make the report by telephone or otherwise to the county Department of Social Services or to a law enforcement agency in the county where the child resides or is found. The legislation further provides that a person required to report must make the report within 24 hours or the next working day after receiving the information that gives the person reason to believe that a child has been or may be abused or neglected.

Referred to Committee on Judiciary, 1/22/13.

3413 Medicaid Coverage Requirements (Bales)

This bill provides that, beginning January 1, 2014 through December 31, 2016, the Department of Health and Human Services shall provide Medicaid coverage to: (1) non-pregnant, childless adults ages nineteen up to sixty five years with income up to one hundred thirty eight percent of the federal poverty level (with five percent income disregard); (2) individuals who are aged, blind, or disabled with income up to one hundred thirty eight percent of the federal poverty level (with five percent income disregard); and (3) low income families with income up to one hundred thirty-eight percent of the federal poverty level (with five percent income disregard).

Referred to Committee on Ways and Means, 1/23/13.

3416 Patient Firearm Ownership (Putnam, Pitts, H.A. Crawford, Kennedy, Southard, McCoy, Allison, Loftis, Gambrell, G.R. Smith, J.R. Smith, Taylor, Rivers, Erickson, Hamilton, Hardee, Toole, Hiott,

Limehouse, Bannister, and others)

This legislation prohibits a health care provider from asking a patient about firearm ownership or possession of a firearm or the presence of firearms in the patient's home. However, this provision does not apply if the health care provider is: (1) treating a patient with a gunshot wound or an injury related to the use or discharge of a firearm; (2) treating a patient for a mental health or psychiatric disorder; or (3) required by law to report adult abuse and neglect or child abuse and neglect and information concerning firearms in the home or in possession of the patient is integral to the report.

Referred to Committee on Judiciary, 1/24/13.

3564 Possession of a Handgun or Concealed Weapons Permit by the Mentally Ill (M.S. McLeod, Bowen, Sabb, Rutherford, Southard, Bernstein, Alexander, Finlay, Hart and Howard)

This bill would prohibit the following individuals from possessing or acquiring a handgun:

- Individuals (including children) adjudicated mentally ill and involuntarily committed to a mental institution for inpatient or outpatient treatment,
- individuals found not fit to stand trial, and
- Individuals for whom a verdict has been returned "not guilty by reason of insanity" or "guilty but mentally ill".

In each case, the bill requires the appropriate court to notify SLED of the commitment or finding. SLED transmits this information to NICS. The bill also requires SLED to cross reference this information with SLED'S concealed weapons permit database and other databases that may contain information which may contribute to the safety and protection of the public to determine if an individual reported to SLED by the court has a current permit and if so, requires SLED to notify the permittee and the sheriff of the county in which the permit was issued that the permit has been revoked and must be surrendered.

Referred to Committee on Judiciary, 2/19/13.

3567 Mental Health Treatment for Children (Horne)

This bill adds the term "young adults" in the definition of children and adolescents who are in need of mental health treatment in a residential facility. The bill also increases the eligibility age from under eighteen to under twenty-one.

Referred to Committee on Medical, Military, Public and Municipal Affairs, 2/19/13.

3601 School Protection Officer Act (Barfield, Clemmons, Hardee, Cobb-Hunter, Ott, Bingham, Norman, Pitts and White)

This legislation enacts the "School Protection Officer Act". The term "school protection officer" means a person certified as a Class 4 officer by the Law Enforcement Training Council and intended to provide armed protection and other specific public safety and first responder functions to public school children and employees. The legislation provides that the Law Enforcement Council must develop guidelines for related training that must be offered by the Criminal Justice Academy.

Referred to Committee on Education and Public Works, 2/21/13.

3776 Evaluation of a Person to Determine Whether He is a Sexually Violent Predator (Quinn)

Relating, among other things, to the evaluation of a person to determine whether he is a sexually violent predator, this legislation provides that the court may require the person to complete certain procedures or tests if requested by the expert conducting the evaluation.

Introduced, read first time, and referred to Committee on Judiciary 3/07/13.