

**NORTH CAROLINA GENERAL ASSEMBLY**

**DRAFT LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** House Bill 381 (Senate Committee Substitute Adopted 8/16/01)

**SHORT TITLE:** Mental Health System Reform

**SPONSOR(S):** Representative Verla Insko

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>
<b>NEW STATE FUNDS</b> (See Part 2., Section 2)	<b>\$431,425</b>	<b>\$1,025,700</b>	<b>\$1,025,700</b>	<b>\$1,025,700</b>	<b>\$1,025,700</b>
<b>LOCAL SYSTEM:</b>					
<b>REVENUES</b>	<b>\$816,103,239</b>	<b>\$816,103,239</b>	<b>\$816,103,239</b>	<b>\$816,103,239</b>	<b>\$816,103,239</b>
<b>EXPENDITURES</b> (See Page 2)	<b>\$816,103,239</b>	<b>\$816,103,239</b>	<b>\$816,103,239</b>	<b>\$816,103,239</b>	<b>\$816,103,239</b>
<b>POSITIONS:</b>	N/A				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Health and Human Services				
<b>EFFECTIVE DATE:</b>	Various effective dates as follow: Sections 1.1 through 1.21 (b), become effective July 1, 2002; Section 2 becomes effective if the General Assembly appropriates the funds; Section 4 becomes effective July 1, 2001; and the remainder is effective when it becomes law.				

**BILL SUMMARY:** Currently, except for Wake and Mecklenburg, counties provide mental health, developmental disabilities and substance abuse services (MH/DD/SAS) through area mental health authorities. This bill would amend Article 4 of Chapter 122C to provide counties an alternative to area authorities to provide MH/DD/SAS to consumers. Counties would be authorized to withdraw from area authorities and opt to provide for the delivery of MH/DD/SAS services through a single county program or jointly with one or more counties through a joint agency established pursuant to an interlocal agreement. Other elements of the bill include:

- Enhanced accountability and cooperation between counties, area authorities, and the state;

- Development of a “business plan” to guide the management and delivery of public services at the local and state levels;
- Universal availability of core MH/SS/SAS services within available resources;
- State support for services to target populations;
- Enhanced powers and duties relating to quality assurance and accountability at the state and county levels;
- Establishment of a state and local ombudsman program; and
- Other reforms as specified in the bill.

**ASSUMPTIONS AND METHODOLOGY:**

**THE FISCAL IMPACT OF HB 381 CANNOT BE FULLY DETERMINED UNTIL MANY DECISIONS HAVE BEEN MADE REGARDING THE CONTENT OF THE MANDATORY STATE PLAN (SUCH AS HOW SERVICES AND TARGET POPULATIONS ARE DEFINED). THIS PLAN IS NOT SCHEDULED FOR COMPLETION UNTIL DECEMBER 1, 2001 AND IS SUBJECT TO REVIEW BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MH/DD/SAS DURING DECEMBER 2001.**

**IN ORDER TO COMPLY WITH THE REQUIREMENTS IN HB 381, IT IS ANTICIPATED THAT THE REALIGNMENT OF CURRENT STATE AND FEDERAL FUNDS WILL OCCUR. AREA MENTAL HEALTH SYSTEM FUNDS TOTAL APPROXIMATELY \$816,103,239 IN STATE, FEDERAL AND LOCAL FUNDS (LOCAL FUNDS CONSTITUTE \$105,688,052 OF THE TOTAL).**

**Section 1.1** amends G.S. 122C-2 to update the language of the State's policy towards persons in need of mental health, developmental disabilities and substance abuse services and to articulate the role of the State and counties to provide for, (directly or through contracts) the following minimum services within available resources. The provision of these services are to be provided within the financial resources of the State:

1. Make available community-based services when such treatment is appropriate and reasonably accommodated **within available resources**;
2. Ensure the availability of the following core services: screening, assessment, and referral; emergency services; case support; and consultation, prevention, and education; **FISCAL IMPACT: UNKNOWN - Estimated cost of screenings, assessments and referrals is \$43,328,000 based on approximately 40,000 clients (based on national utilization data) and an average \$108.32 per client – the full impact of this item is subject to the development of the state plan and must be accomplished within existing state, federal and local resources.**
3. Provide matching funds for entitlement program services as required by law (e.g., the counties' share of the cost of services for Medicaid is approximately 5.2 percent);

**FISCAL IMPACT: NONE (ALREADY ACCOMPLISHED WITHIN EXISTING RESOURCES)**

4. Provide state funding for the support of services to targeted populations –i.e., individuals who are given service priority under the State Plan to be developed by the Secretary.

**FISCAL IMPACT: UNKNOWN - the full impact of this item is subject to the development of the state plan and must be accomplished within existing state, federal and local resources.**

**Section 1.2 (a)** adds eleven new defined terms to Chapter 122C. Significant definitions include: 'core services', 'public services', 'specialty services', 'targeted population', and 'uniform portal process'.

**FISCAL IMPACT: NONE**

**Section 1.2 (b)** makes a conforming change to the current definition of 'catchment area'.

**FISCAL IMPACT: NONE**

**Section 1.3** amends G.S. 122C-64 to add that every area authority or county program, in addition to every State facility, must establish a human rights committee responsible for protecting the rights of clients. Currently, only State facilities are required to establish human rights committees. In multicounty area authorities and county programs, the committee must include a member representing each affiliated county.

**FISCAL IMPACT: UNKNOWN BUT MINIMAL SINCE PROGRAMS HAVE SIMILAR ORGANIZATIONS/COMMITTEES IN OPERATION NOW.**

**Section 1.4** makes conforming changes to G.S. 122C-101.

**FISCAL IMPACT: NONE**

**Section 1.5** adds a new section to Chapter 122C to require the Department of Health and Human Services to develop and implement a "State Plan for MH/DD/SA Services". Among other things, the Plan will include standards and outcome expectations for core and targeted services, strategies and schedules for implementing, monitoring and evaluating the service plan, the procedures for a uniform portal process, and a business plan that demonstrates efficient and effective resource management, including strategies for Medicaid and non-Medicaid services. The State Plan is to be completed by December 1, 2001.

**FISCAL IMPACT: UNKNOWN - the full impact of this item is subject to the development of the state plan and must be accomplished within existing state, federal and local resources.**

**Section 1.6** makes conforming changes to G.S. 122C-111.

**FISCAL IMPACT: NONE**

**Sections 1.7(a) and 1.7(b)** recodify G.S. 122C-112 to G.S. 122C-112.1, the Secretary's powers and duties. Several new powers and duties are added to the expanded oversight role of the Secretary in the proposed legislation, including additional rule-making authority.

**FISCAL IMPACT: UNKNOWN**

**Section 1.8** makes conforming changes and substantively amends G.S. 122C-115 by stating that counties "shall" (was "may") appropriate funds to support programs delivered by area authorities or county programs.

**FISCAL IMPACT: NONE**

**Section 1.9** amends Part 2 of Article 4 of Chapter 122C to add three new sections:

1. County Governance Option: G.S. 122C-115.1 will authorize a county to operate a program for mental health, developmental disabilities, and substance abuse services as a single county program or join with one or more other counties and form a joint agency to operate a multicounty program. This entity will be called a "county program" and will be subject to all of the provisions of Chapter 122C and the rules of the Secretary and the Commission, including the business plan (see below). A county program will not function independently of county government and the boards of county commissioners are free to confer upon the joint agency as many or as few powers and duties (in addition to those that are required under this section) as they deem appropriate.

The requirements provided in the bill are 1) the appointment of a program director with certain minimum qualifications, unless waived by the Secretary, 2) budgetary and fiscal matters, 3) a catchment area with a target population of 200,000 or a target number of five counties, 4) appointment of an advisory committee, 5) public hearings and 6) reporting requirements.

**FISCAL IMPACT: UNKNOWN - the full impact of this item is subject to the development of the state plan and must be accomplished within existing state, federal and local resources.**

2. Business Plan Requirement: G.S. 122C-115.2 requires every county, through an area authority or county program to develop, review and approve a business plan for the management, delivery and financial accountability of mental health, developmental disabilities, and substance abuse services. The plan must describe how the area authority or county program will carry out its administrative functions, address financial accountability and oversight, and other matters relating to the effective and efficient service delivery. This new section also sets forth the procedures and timeframes for the approval of the business plans and certification by the Secretary.

**FISCAL IMPACT: NONE**

3. Dissolution of An Area Authority: G.S. 122C-115.3 governs the dissolution of or a withdrawal from an area authority. Dissolution of an area authority would be by agreement with the participating counties and only after the counties have demonstrated to the Secretary of DHHS that services to clients would not be disrupted.

**FISCAL IMPACT: NONE**

**Section 1.10** makes several substantive changes to G.S. 122C-117 regarding the powers and duties of area authorities and their boards, including additional reporting requirements, and modifications in the selection of the area authority director. This section and sections 1.11 and 1.12 apply to existing area authorities at the time the act becomes effective (July 1, 2002) and any future area authorities certified by the Secretary subsequent to the approval its business plan. These sections do not apply to county programs certified by the Secretary.  
**FISCAL IMPACT: NONE**

**Sections 1.11(a) and 1.11(b)** recodify G.S. 122C-118 to G.S. 122C-118.1, governing the composition of the area authority board. Currently, an area authority board may have no less than 15 members and no more than 25 members. G.S. 122C-118.1 would require the board to have no less than 11 and no more than 25 members. In addition, the requirements regarding the composition of the board are modified to provide greater flexibility and representation. Members, other than county commissioners, may only serve two consecutive terms.  
**FISCAL IMPACT: NONE**

**Section 1.11(c)** amends G.S. 122C-119 to require that the area board's finance committee include a county finance officer or an individual with financial expertise as an ex officio member.  
**FISCAL IMPACT: NONE**

**Section 1.12** rewrites G.S. 122C-121 to provide that the appointment and the termination of the director is subject to the approval of the board of commissioners. The candidate must meet certain minimum qualifications and shall be selected by a search committee with representation from consumer boards, the county board of commissioners, and the Secretary. The Secretary may waive one or more of the minimum requirements. The area board is required to evaluate the area director annual according to criteria established by the Secretary and the area board, and the board is required to solicit input from the county board of commissioners. **FISCAL IMPACT: NONE**

**Sections 1.13(a) and 1.13(b)** recodify 125.1, and 126, which govern the process whereby the Secretary is authorized to take over an area authority that is failing to provide minimally adequate services. This new section sets forth the procedures under which the Secretary, upon notice of deficiencies in local program services, may issue a notice that suspension of funding, assumption of service delivery or management functions or appointment of a caretaker board is likely, send a notice to the offending program and if necessary, suspend funding, ensure service delivery, and appoint a caretaker administrator or caretaker board. The bill reduces the time frames within which an area authority or county program must take remedial action subsequent to receipt of notice from 120 days to 60 days. The secretary has similar authority under current law, but doesn't have the authority to warn an area authority that action by the Secretary is likely if corrective action isn't taken.  
**FISCAL IMPACT: NONE**

**Section 1.14.** Repeals G.S. 122C-132 and 122C-132.1 (governing single portal policy).  
**FISCAL IMPACT: NONE**

**Section 1.15.** Current law, 122C-141(a), provides that the area authority may provide services directly and may contract with other public or private agencies, institutions, or resources for the provision of services. This section amends 122C-141(a) to provide that an area authority or county program must contract with other public or private agencies, institutions, or resources to provide public services and may only provide services directly when other public or private providers are unavailable to meet service needs and after receiving approval from the Secretary. Services provided directly must ensure consumer choice and fair competition.

**FISCAL IMPACT: UNKNOWN**

**Section 1.16** Repeals G.S.122C-143.2. (Annual Memorandum of Agreement)

**FISCAL IMPACT: NONE**

**Sections 1.17(a), (b)** make conforming changes to current law governing appeals by area authorities regarding rules of the Commission and the Secretary.

**FISCAL IMPACT: NONE**

**Section 1.17(c)** adds a definition of "client" to the current law governing appeals by contracted providers and clients to the Area Authority (State MH/DD/SA) Appeals Panel.

**FISCAL IMPACT: UNKNOWN - the full impact of this item is subject to the development of the state plan and must be accomplished within existing state, federal and local resources.**

**Sections 1.18.** Under current law, employees under the direct supervision of the area director are employees of the area authority and are subject to Chapter 126 of the General Statutes (State Personnel Act). This section amends 122C-154 to provide that employees appointed by the county program director are employees of the county. In a multicounty program, employment of staff shall be as agreed upon in the interlocal agreement.

**FISCAL IMPACT: UNKNOWN – the full impact of this item is subject to the development of the state plan and must be accomplished within existing state, federal and local resources.**

**Section 1.19** updates G.S. 122C-181 to conform the statute to consolidations that have occurred.

**FISCAL IMPACT: NONE**

**Sections 1.20(a) and 1.20(b)** moves a provision that is currently under the Secretary's powers and duties and moves it to a new section in Article 3 of Chapter 143B, which governs the Department of Health and Human Services.

**FISCAL IMPACT: NONE**

**Section 1.21(a)** amends G.S. 143B-147, which creates and provides the rule making authority of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, to expand the Commission's jurisdiction to include the development of standards of care for mh/dd/sas.

**FISCAL IMPACT: Potential fiscal impact due to increased Commission meetings. DHHS estimates additional \$45,000 for projected 18 meeting.**

**Section 1.21(b)** makes conforming changes to G.S. 143B-148, which provides for the composition of membership of the Commission and specifies that a member may not serve more than three consecutive two-year terms.

**FISCAL IMPACT: NONE**

## **PART 2. MH/DD/SA CONSUMER ADVOCACY PROGRAM**

**Section 2** amends Chapter 122C by adding a new Article 1A which establishes a MH/DD/SA Quality of Care Consumer Advocacy Program to ensure that consumers have information about the availability of services and access to resources to obtain timely quality care. The Program would be established in the Office of the Secretary, and include a State Consumer Advocate and an unspecified number of local staff located throughout the State in locations designated by the Secretary. The purposes of the program include 1) providing consumers, their families, and providers with the information and assistance needed to locate appropriate services, 2) resolve complaints or address common concerns, 3) to promote community development, 4) to ensure, within available resources, that the performance of the MH/DD/SA service system is closely monitored, that reviews are conducted, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all consumers of MH/DD/SA services.

**FISCAL IMPACT: UNKNOWN – THIS PART DOES NOT BECOME EFFECTIVE UNLESS THE GENERAL ASSEMBLY APPROPRIATES THE FUNDS. However, based on the current Ombudsman Program model in DHHS estimated costs are \$431,425 (including \$130,000 non-recurring for start-up) for three months of FY01/02 and \$1,025,700 for recurring operations over a five-year period.**

### **Part 3. Phased-In Implementation.**

**Section 3(a)** directs DHHS to do the following:

- By December 1, 2001: (1) Develop a State Plan for Mental Health, Developmental Disabilities and Substance Abuse Services; (2) Review all current rules for MH/DD/SAS services to identify areas of duplication, vagueness, or ambiguity; (3) Review the oversight and monitoring functions implemented by the Department; (4) Develop service standards, outcomes, and financing formula for core and targeted services; (5) Develop the business plan format; (6) Report on the Department's readiness to implement system reform;
- By March 1, 2002, DHHS shall establish criteria and operational procedures for the Quality Care Ombudsman Program.
- By September 1, 2004, DHHS shall develop a consolidation plan based on geographic and population thresholds to reduce the number of area and county programs to not more than 20.

- By July 1, 2003, the DHHS shall complete certification of one-third of the area authorities and county programs with approved business plans.
- By January 1, 2004, the DHHS shall complete certification of two-thirds of the area authorities and county programs with approved business plans.
- By July 1, 2004, the DHHS shall complete certification of all area authorities and county programs.

**FISCAL IMPACT: UNKNOWN UNTIL PLANNING IS COMPLETE. AND MUST BE ACCOMPLISHED WITHIN EXISTING STATE, FEDERAL AND LOCAL RESOURCES.**

**Section 3(b)** grants temporary rule making authority to the Commission and to the Department to implement reform and requires the rules to be adopted in accordance with Chapter 150B.

**FISCAL IMPACT: NONE**

**Section 3(c)** requires the Secretary to study consolidating the Quality of Care Consumer Advocacy Program with other advocacy or ombudsman programs in the Department and report to the Joint Legislative Oversight Committee on or before March 1, 2002.

**FISCAL IMPACT: NONE**

#### **PART 4. EFFECTIVE DATE**

**Sections 1.1 through 1.21(b)** become effective July 1, 2002; **Section 2** becomes effective if the General Assembly appropriates the funds; the remainder is effective when it becomes law.

**TECHNICAL CONSIDERATIONS: NONE**

**FISCAL RESEARCH DIVISION 733-4910**

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**APPROVED BY:** James D. Johnson

**DATE:** August 20, 2001



**Signed Copy Located in the NCGA Principal Clerk's Offices**