

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

**BILL:** CS/SB 110

**INTRODUCER:** Children, Families, Elder Affairs Committee and Senator Flores

**SUBJECT:** Involuntary Examinations Under the Baker Act

**DATE:** April 15, 2013                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	<b>Fav/CS</b>
2.			HP	
3.			JU	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

CS/SB 110 directs the Department of Children and Families (DCF) to convene a work group to assess whether revisions are needed to part I of ch. 394, F.S., the Florida Mental Health Act, to improve the efficiency and effectiveness of its operation. A report of the DCF’s findings and recommendations is due to the President of the Senate, the Speaker of the House, and the Governor by January 1, 2014.

The bill has an effective date of July 1, 2013.

This bill creates an undesignated section of the Florida Statutes.

**II. Present Situation:**

**Involuntary Examination**

In 1971, the Legislature created Part I of ch. 394, F.S., the “Florida Mental Health Act,” also known as the Baker Act, to address mental health needs in the state. The Baker Act is a civil commitment law which provides a process for the involuntary examination and subsequent

involuntary placement (commitment) of a person for either inpatient or outpatient treatment of a mental, emotional, or behavioral disorder.

The Department of Children and Families (DCF) administers this law through receiving facilities, which are public or private facilities that are designated by DCF to receive and hold involuntary patients under emergency conditions for psychiatric evaluation and to provide short-term treatment.<sup>1</sup> A patient who requires further treatment may be transported to a treatment facility. Treatment facilities designated by DCF are state-owned, state-operated, or state-supported hospitals which provide extended treatment and hospitalization beyond what is provided in a receiving facility.<sup>2</sup>

Section 394.463(1), F.S. provides that a person may be taken to a receiving facility for involuntary examination if the person is believed to be mentally ill and because of that mental illness: the person has refused voluntary examination or cannot determine for himself or herself whether examination is necessary; and, without care or treatment, the person is either likely to suffer from self-neglect, cause substantial harm to himself or herself, or be a danger to himself or herself or others.<sup>3</sup> An involuntary examination may be initiated in one of the following ways:

- A court may enter an *ex parte* order stating a person appears to meet the criteria for involuntary examination. This order is based on sworn testimony, either written or oral.
- A law enforcement officer may take a person into custody who appears to meet the criteria for involuntary examination and transport him or her to a receiving facility for examination.
- A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she examined the person within the preceding 48 hours and the person appears to meet the criteria for involuntary examination.<sup>4</sup>

By its definition of the terms “physician,” “clinical psychologist,” and “psychiatric nurse,” the Baker Act limits authority to issue certificates for involuntary examinations to those practitioners who have additional experience or education related to mental disorders.<sup>5</sup> Clinical social workers are required by their licensing standards to have specific experience or training related to mental disorders.<sup>6</sup> The practices of mental health counseling and marriage and family therapy include using psychological methods to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders or dysfunctions.<sup>7</sup>

In 2011, there were 150,466 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary examinations (49.21 percent), followed by mental health professionals (48.73 percent), and then *ex parte* orders by judges (2.06 percent).<sup>8</sup>

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<sup>1</sup> Section 394.455(26), F.S.

<sup>2</sup> Section 394.455(32), F.S.

<sup>3</sup> Section 394.463(1), F.S.

<sup>4</sup> Section 394.463, F.S.

<sup>5</sup> Sections 394.455(2), (21), (23)

<sup>6</sup> Section 491.003(3), F.S.

<sup>7</sup> Sections 491.003(8), (9), F.S.

<sup>8</sup> USF, de la Parte Florida Mental Health Institute, *Annual Report of Baker Act Data, Summary of 2011 Data*, (Jan. 2013), available at [http://bakeract.fmhi.usf.edu/document/BA\\_Annual\\_2011\\_Final.pdf](http://bakeract.fmhi.usf.edu/document/BA_Annual_2011_Final.pdf) (last visited Feb. 18, 2013).

**III. Effect of Proposed Changes:**

**Section 1** directs the DCF to convene a work group to assess whether revisions are needed to part I of ch. 394, F.S., the Florida Mental Health Act, to improve the efficiency and effectiveness of its operation. A report of the DCF's findings and recommendations is due to the President of the Senate, the Speaker of the House, and the Governor by January 1, 2014.

**Section 2** provides an effective date of July 1, 2013.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on April 15, 2013**

- Removes the original bill text, which authorizes physician assistants and ARNPs to initiate an involuntary examination under the Baker Act, and substitutes a study by the DCF of the Baker Act with a report due to the Legislature and Governor with recommended changes.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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