

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7083 (PCB FFF 06-04) CS Department of Children & Family Services  
**SPONSOR(S):** Future of Florida's Families Committee and Rep. Galvano  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** SB 1034 and SB 1850

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Future of Florida's Families Committee	7 Y, 0 N	Davis	Collins
1) Health Care Appropriations Committee	14 Y, 0 N	Ekholm	Massengale
2) Health & Families Council	11 Y, 0 N, w/CS	Davis	Moore
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

This bill amends s. 397.451, F.S., requiring substance abuse service provider personnel who request an exemption from disqualification to submit the request within a certain time frame after notification of the disqualification. The bill deletes a provision requiring immediate dismissal of the service provider personnel upon disapproval of a request for an exemption. Further, the bill creates language that prohibits the Department of Children and Family Services (DCF) from issuing a regular license to a service provider who fails to provide proof that the background screening information has been submitted.

The bill repeals section 3 of Chapter 2003-279, Laws of Florida. This section deletes provisions relating to the expiration date for the appointment of certain mental health and substance abuse positions to include the Assistant Secretary of Substance Abuse and Mental Health, the Director of Substance Abuse and the Director of Mental Health. Further, the bill deletes provisions relating to the expiration date for the establishment of a Substance Abuse Program Office and a Mental Health Program Office.

Finally, the bill amends Chapter 394, F.S., pertaining to Marriage and Family Therapists and Mental Health Counselors. It defines and adds "Marriage and Family Therapists" and "Mental Health Counselors" to those professionals permitted to initiate involuntary examinations under the provisions of the Baker Act. They may also deem services in a treatment plan to be clinically appropriate for involuntary outpatient placement.

This bill does not appear to have a fiscal impact on state or local government.

Except as otherwise provided, the bill takes effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Safeguard Individual Liberty**—This bill provides for new government involvement pertaining to substance abuse service provider personnel. The Department of Children and Family Services (DCF) may not issue a regular license to any service provider who fails to provide proof that background screening information has been submitted.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Background Screening**

Service provider personnel who have been found to have a disqualifying offense (i.e., are found to be in noncompliance with the minimum standards for good moral character), are immediately terminated from employment or placed in positions for which background screening is not required, as per s. 435.06(2), F.S. Specifically, s. 397.451(1)(f), F.S., permits service provider personnel to continue working in positions of trust and responsibility pending disposition of the request for exemption, rather than mandating immediate dismissal, or placement in a position for which background screening is not required.

It is the duty of the Department of Children and Family Services, as delineated in s. 397.321(13), F.S., to ensure that service provider personnel have background checks and meet the minimum standards for employment in statute. However, historically, the department did not have the regulatory authority to withhold the issuance of a regular substance abuse license should the service provider fail to produce proof that background screening information had been submitted.

##### **Mental Health and Substance Abuse**

In 2003, legislation was enacted that approved the appointment of an Assistant Secretary for Substance Abuse and Mental Health, who would serve at the pleasure of the Secretary of the Department of Children and Family Services. Further, the legislation permitted the Secretary to appoint a Program Director for Substance Abuse and a Program Director for Mental Health, who would have subsequent line authority over all district substance abuse and mental health program management staff. The legislation directed that mental health institution management staff were to report directly to the Program Director for Mental Health. The legislation described the roles and responsibilities of the affected staff and directed the Assistant Secretary for Substance Abuse and Mental Health to develop a memorandum of agreement with each district and region administrator, which served to further describe the working relationships within each geographic area. Additionally, the legislation established the creation of a separate Mental Health Program Office and a Substance Abuse Program Office. The legislation was enacted with an expiration date of October 1, 2006, for ss. 20.19(2)(c) and (4)(b)6. and 8., F.S., unless it was reviewed and reenacted by the Legislature before that date.

##### **Marriage and Family Therapists (Baker Act)**

Currently, the only professionals who may execute a certificate for an involuntary examination are a physician, clinical psychologist, psychiatric nurse, mental health counselor, or clinical social worker. These professionals are permitted to determine whether services in a treatment plan are clinically appropriate for involuntary outpatient placement.

DCF has historically opposed adding professionals to those already permitted to initiate involuntary examinations under the provisions of the Baker Act. This opposition was based on the premise that it would increase the number and cost of involuntary examinations and result in the public crisis stabilization units having to operate over licensed capacity. However, SB 700 (Chapter 2004-385, Laws of Florida) added mental health counselors to the Baker Act involuntary examination process and authorized a pilot project to review the impact of this change. That law required a study of the pilot project to determine the fiscal impact of including additional professionals in the process, and the results of that study did not substantiate the department's position regarding additional costs.

## **Effects of the Changes**

### **Background Screening**

This bill provides the department with the regulatory authority to withhold the issuance of a regular substance abuse license from service providers who fail to provide proof that background screening information has been submitted for processing. Consequently, this portion of the bill will help to ensure that individuals providing services to children will meet the statutory standards of individuals with good moral character, and will afford the department with the opportunity and authority to provide close scrutiny of providers to ensure compliance with background screening requirements.

### **Mental Health and Substance Abuse**

The bill abrogates the repeal language in ss. 20.19(2)(c) and (4)(b) 6. and 8., F.S., relating to the appointment of certain mental health and substance abuse positions and the establishment of program offices for mental health and substance abuse which expires on October 1, 2006, unless reviewed and reenacted by the Legislature before that date. Repealing this language would permit the continued functioning of the affected positions and program offices.

### **Marriage and Family Therapists (Baker Act)**

This bill allows for Marriage and Family Therapists and Mental Health Counselors to be included in the law that provides legal authorization to first line professionals, enabling them to initiate involuntary evaluation proceedings for clients presenting a danger to self and others. As one of three clinical provider groups identified in chapter 491, F.S., Marriage and Family Therapists are the only clinical providers not authorized to initiate the Baker Act.

Marriage and Family Therapists are essentially treating the same clinical populations as Clinical Social Workers and Mental Health Counselors. However, they must take extra steps to ensure the safety of their clients and the community when initiating an involuntary evaluation. The Florida Association of Marriage and Family Therapy has expressed concern that the lag time that accompanies this process may present disadvantages to their clients and continues to add needless duplication of resources to Florida's communities.

### **Commission on Marriage and Family Support**

The bill deletes the provision that repeals the Commission on Marriage and Family Support Initiatives on June 20, 2008, and directs the Department of Children and Family Services to advise the Legislature when the commission ceases to be essential.

## **C. SECTION DIRECTORY:**

**Section 1.** Amends s. 383.0115, F.S., deleting a provision that repeals the Commission on Marriage and Family Support Initiatives.

**Section 2.** Amends s. 397.451, F.S., requiring service provider personnel who request an exemption from disqualification to submit the request within a certain time frame after notification of the disqualification.

**Section 3.** Repeals section 3 of Chapter 2003-279, Laws of Florida, relating to program offices and appointments.

**Section 4.** Effective July 1, 2006, amends s. 394.455, F.S., providing for a definition of “service provider”, “Marriage and Family Therapist ,” and “Mental Health Counselor.”

**Sections 5-7.** Effective July 1, 2006, amends ss. 394.463, 394.4655, and 394.467, F.S., providing for Marriage and Family Therapists to be included as first line professionals, enabling them to initiate involuntary evaluation proceedings for clients presenting a danger to self and others.

**Section 8.** Except as otherwise provided, provides an effective date of upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None.

2. Expenditures:  
None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.

2. Expenditures:  
None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The recent study required in SB 700 (Chapter 2004-385, Laws of Florida), which was initiated to review the fiscal impact of including additional mental health professionals in the involuntary examination process in Baker Act evaluations, has shown that there was no increase in activity or financial burden to the community that was studied.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Sufficient rulemaking authority exists in present law to authorize implementation of this act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On April 18, 2006, the Health and Families Council adopted a strike all amendment to House Bill 7083. The following changes were made in the strike all amendment:

- Conforms to CS/SB 1850.
- Deletes a provision that repeals the Commission on Marriage and Family Support Initiatives on June 20, 2008; and directs the Department of Children and Family Services to advise the Legislature when the commission ceases to be essential.
- Defines Mental Health Counselor and includes Mental Health Counselor and Marriage and Family Therapist in the definition of service provider for outpatient treatment services; authorizes Mental Health counselors to determine if services recommended for an outpatient treatment plan are clinically appropriate; and requires that any evaluations performed by a Mental Health Counselor be included in any documentation provided to a treatment facility director when an individual is ordered to involuntary inpatient placement.

The council favorably reported a council substitute. This analysis is drafted to the Council Substitute.