

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 1584

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Abruzzo

SUBJECT: Baker Act

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.			JU	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1584 directs the Department of Children and Families (DCF) to create a work group to evaluate methods to improve the operational effectiveness of the Florida Mental Health Act (The Baker Act). The bill identifies the members of the workgroup and provides that a report be provided to the Secretary of DCF, the Secretary of the Agency for Health Care Administration, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2014.

The bill shall take effect upon becoming law and there is no fiscal impact.

II. Present Situation:

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address mental health needs in the state.¹ Part I of ch. 394, F.S., provides authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of individuals for treatment. The Department of Children and Families (DCF) administers this law through receiving facilities which provides an examination of persons with evidence of a mental illness. Receiving facilities are designated by DCF and may be public or private facilities providing examination and short-term treatment of persons who meet the criteria under The Baker Act.² Subsequent to examination at a receiving

¹ Chapter 71-131, s. 1, Laws of Florida

² Section 394.455(26), F.S.

facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by DCF are state hospitals (e.g., Florida State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.³

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.⁴

An involuntary examination may be initiated by a circuit court or a law enforcement officer.⁵ A circuit court may enter an *ex parte* order stating a person meets the criteria for involuntary examination. A law enforcement officer, as defined in s. 943.10, F.S., may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.

In addition, the following professionals, when they have examined a person within the preceding 48 hours, may issue a certificate stating that the person meets the criteria for involuntary examination:⁶

- A physician licensed under ch. 458, F.S., or an osteopathic physician licensed under ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders.
- A physician employed by a facility operated by the United States Department of Veterans Affairs which qualifies as a receiving or treatment facility.
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.
- A psychiatric nurse licensed under Part I of ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing and two years of post-master's clinical experience under the supervision of a physician.
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.⁷
- A clinical social worker licensed under ch. 491, F.S.⁸

³ Section 394.455(32), F.S.

⁴ Section 394.463(1), F.S.

⁵ Section 394.463(2)(a), F.S.

⁶ *Id.*

⁷ Section 491.003(8) Marriage and Family Therapists use practice methods of a psychological nature to evaluate, assess, diagnose, treat and prevent emotional and mental disorders or dysfunctions.

⁸ Section 491.003(3), F.S. Clinical Social Workers are required by law to have experience in providing psychotherapy and counseling.

In 2011, there were 150,466 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary exams (49.21 percent) followed by mental health professionals and physicians (48.73 percent) and then *ex parte* orders by judges (2.06 percent).⁹

III. Effect of Proposed Changes:

Section 1 directs DCF to convene a workgroup to evaluate methods to improve the operational effectiveness of Part I of ch. 394, F.S., the Florida Mental Health Act and recommend changes to existing laws, rules, and agency policies needed to implement the workgroup recommendations.

This section also provides that the workgroup should consist of 20 members from various stakeholder groups. Members of the workgroup shall be appointed by June 1, 2014, and the first meeting of the workgroup shall take place before July 1, 2014. The draft of its recommendations shall be reviewed by the group by September 1, 2014. A final report shall be provided to the Secretary of the Department of Children and Families, the Secretary of the Agency for Health Care Administration, the President of the Senate and the Speaker of the House of Representatives by November 1, 2014. The report must include the workgroup's findings and recommended statutory and administrative rule changes.

Section 2 provides that the bill shall take effect upon becoming law.

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.

⁹ Department of Children and Families, *Florida's Baker Act: 2013 Fact Sheet*, available at <http://myflfamilies.com/service-programs/mental-health/baker-act-manual> (last visited April 3, 2014).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. 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 8, 2014:

The Committee Substitute:

- Provides that two advanced registered nurse practitioners who are nationally certified in mental health are appointed to the workgroup. One shall be appointed by the Florida Association of Nurse Practitioners and one shall be appointed by the Florida Nurse Practitioner Network.
- Adds to the workgroup a psychologist licensed under ch. 490, F.S., appointed by the Florida Psychological Association.
- Adds to the workgroup a psychiatrist with experience in the Baker Act, appointed by the Florida Psychiatric Society.

- B. Amendments:

None.