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 Fiscal Policy

BILL:	CS/SB 954
INTRODUCER:	Fiscal Policy Committee and Senator Garcia
SUBJECT:	Involuntary Examinations of Minors
DATE:	April 10, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Scott	Klebacha	ED	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Favorable**
3.	Jones	Hrdlicka	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 954 requires notification for involuntary examinations of minors. Specifically, the bill:

- Requires a public or charter school principal or the principal's designee to immediately notify the parent of the student who is removed from school, school transportation, or a school-sponsored activity and transported to a receiving facility for involuntary examination.
- Requires each local school health services plan, district school board, and charter school governing board to develop policy and procedures for such notification.
- Expands the definition of "emergency health needs" to include onsite evaluation of a student for illness or injury and release of the student to a law enforcement officer.
- Provides the following notification requirements for receiving facilities that hold minor patients for involuntary examination:
  - Immediate notice to the patient's parent, guardian, or guardian advocate in person or by telephone or other electronic communication.
  - Repeated and documented attempts of notification until receiving confirmation by the parent, guardian, or guardian advocate.
- Permits a school principal, or his or her designee, and the receiving facility to delay notification no more than 24 hours if it has been deemed to be in the student's or minor patient's best interest and after a report of known or suspected abuse, abandonment, or neglect is submitted to the Department of Children and Families' (DCF) Central Abuse Hotline.

- Specifies a receiving facility's notification of a patient's whereabouts for adults or emancipated minors being held involuntarily for an examination can occur in person or by telephonic or other electronic communication.

The bill has no fiscal impact.

II. Present Situation:

Involuntary Examination

In 1971, the Legislature created part I, ch. 394, F.S., the "Florida Mental Health Act," also known as the Baker Act, to address mental health needs in the state.[1] The Baker Act is a civil commitment law providing for involuntary psychiatric examinations and subsequent involuntary placement (commitment) of a person for either inpatient or outpatient treatment of a mental, emotional, or behavioral disorder.[2] An involuntary examination may be initiated by a court order, a law enforcement officer, a mental health professional,[3] or a physician.[4]

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, 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.[5]

A patient at a receiving facility must receive an initial examination by a physician or clinical psychologist without unnecessary delay, and may be given emergency treatment if ordered by a physician and necessary for the safety of the patient or others.[6] A patient cannot be held at a receiving facility for more than 72 hours. Within 72 hours of arrival either the patient must be released or the facility must have filed a petition for involuntary placement with the circuit court.[7] A patient cannot be released without the documented approval of a psychiatrist, clinical psychologist, or qualified hospital emergency department physician.[8]

Whenever a facility is required to give notice they must give it to the patient and the patient's guardian, guardian advocate, attorney, and representative. A receiving facility must to give prompt notice of the whereabouts of a patient who is being involuntarily held for examination,

[1] Section 394.451, F.S., and ch. 71-131, L.O.F.
[2] Department of Children and Families, *Florida's Baker Act: 2013 Fact Sheet* (2013), *available at* http://www.dcf.state.fl.us/programs/samh/mentalhealth/docs/Baker%20Act%20Overview%202013.pdf (last visited April 6, 2015).
[3] Including a clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker. s. 394.463(2)(a)3., F.S.
[4] Section 394.463(2)(a), F.S.
[5] Section 394.463(1), F.S. Receiving facilities are designated by the Department of Children and Families.
[6] Section 394.463(2)(f), F.S.
[7] Section 394.463(2)(i), F.S., and *Supra* note 2.
[8] Section 394.463(2)(f), F.S.

by telephone or in person, within 24 hours after the patient's arrival unless the patient requests that no notification be made.[9]

In 2013, there were 171,744 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary examinations (49.65 percent), followed by mental health professionals (48.39 percent), and then orders by judges (1.96 percent).[10] Overall, the number of involuntary examinations has been increasing annually in a number that exceeds Florida population growth. According to the DCF, of the approximately 150,000 involuntary examinations initiated in 2011, 18,000 were of children. Between 2002 and 2011, there was an overall increase of 50 percent in the number of involuntary examinations and a 35 percent increase in examinations of children.[11]

School Health Services Program

The "School Health Services Act," sets forth requirements related to school health and requires the Department of Health, in cooperation with the Department of Education, to supervise the school health services program and conduct periodic program reviews.[12] Each county health department must develop, jointly with the local school board and the school health advisory committee, a school health services plan.

The plan must contain provisions addressing a wide range of services and health issues, including meeting emergency health needs in each school.[13] The "emergency health needs" is the onsite management and aid for illness or injury pending the student's return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.[14] The plan is not required to specifically address parental notification of a student who is transported for involuntary examination.[15]

Student and Parental Rights and Educational Choices

Parents of public school students must receive accurate and timely information regarding their children's academic progress and the ways in which they can help their children succeed in school. These parents are also afforded numerous statutory rights including those relating to health issues.[16] However, there is no requirement that a student's parent be notified when the student is transported to a receiving facility for purposes of an involuntary examination under the Baker Act.

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[9] Section 394.4599(2)(b), F.S.
[10] University of South Florida, de la Parte Florida Mental Health Institute, *Annual Report of Baker Act Data, Summary of 2013 Data*, p. 3-4 (May 2014) *available at* http://bakeract.fmhi.usf.edu/document/BA_Annual_2013_Redacted%20Final.pdf (last visited April 6, 2015).
[11] *Supra* note 2.
[12] Section 381.0056, F.S.
[13] The plan must be completed biennially and approved by the school district superintendent, chair of the school board, county health department medical director or administrator, and the Department of Health district administrator. Rule 64F-6.002(3), F.A.C.
[14] Section 381.0056(2)(a), F.S.
[15] The plan is required to contain provisions for consulting with a parent or guardian when a student's health may need a diagnosis or treatment by the family physician, dentist, or other specialist. s. 381.0056(4)(a)15., F.S.
[16] Section 1002.20, F.S.

Child Protection

Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare must be made immediately to the Center Abuse Hotline. A school teacher, or other school official or personnel, must provide his or her name when reporting known or suspected child abuse.[17]

III. Effect of Proposed Changes:

The bill requires a public or charter school principal or the principal's designee to immediately notify the parent of the student who was removed from school, school transportation, or a school-sponsored activity and transported to a receiving facility for involuntary examination. Notification may be delayed up to 24 hours after the student is removed from school if the principal or principal's designee deems the delay is in the student's best interest and the school has submitted a report to the DCF Central Abuse Hotline based on knowledge or suspicion of abuse, abandonment, or neglect. Each district school board and charter school governing board must develop policy and procedures for such notification and the school health services plan must also provide provisions for such a notification.

The bill amends the "emergency health needs" definition for a school health services plan to include an onsite evaluation for illness or injury and allow for a student's release to a law enforcement officer.

The bill specifies that a receiving facility's notification of an adult or emancipated minor patient's whereabouts that is being held involuntarily for an examination can occur in person or by telephonic or other electronic communication.

The bill requires a receiving facility give notice of the whereabouts of a minor who is being held involuntarily for examination to the patient's parent, guardian, or guardian advocate, in person or by telephonic or other form of electronic communication, immediately after the patient's arrival at the facility. However, the facility may delay notification for up to 24 hours after the patient's arrival if the facility has submitted a report to the DCF Central Abuse Hotline based on knowledge or suspicion of abuse, abandonment, or neglect, and the delay is in the minor's best interest.

The receiving facility must continue to attempt to notify the minor patient's parent, guardian, or guardian advocate until the receiving facility receives confirmation that notice has been received.[18] The receiving facility must make repeated attempts of notification:

- Every hour during the first 12 hours after the patient's arrival; and
- Then once every 24 hours thereafter until:
  - Confirmation is received;
  - The patient is released at the end of the 72 hour examination period; or
  - A petition for involuntary placement is filed with the court.

[17] Section 39.201(1)(c), F.S. Every person has a duty to report a suspicion of abuse, abandonment, or neglect.
[18] Confirmation can be verbally, by telephonic or other electronic communication, or by recorded message.

The receiving facility may see assistance from law enforcement if notification is not made within 24 hours after the patient's arrival. The notification attempts must be documented in the patient's file.

The bill has an effective date of July 1, 2015.

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. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0056, 394.4599, 1002.20, and 1002.33.

IX. Additional Information:

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

CS by Fiscal Policy on April 9, 2015:
The CS removes the bill sections that were reenacting statutes.

B. Amendments:

None.