

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1083 Student Mental Health Procedures  
**SPONSOR(S):** PreK-12 Innovation Subcommittee, Webb and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 1062

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	17 Y, 0 N, As CS	McAlarney	Brink
2) Health & Human Services Committee	18 Y, 0 N	Morris	Calamas
3) Education Committee	16 Y, 0 N	McAlarney	Hassell

### SUMMARY ANALYSIS

Traditional public and charter school principals have a duty to immediately notify a parent when a student is removed from school grounds, school transportation, or a school-sponsored activity and taken to a receiving facility for involuntary examination. In addition to this requirement the bill requires a principal to also verify that de-escalation strategies have been used with the student and outreach to a mobile response team has been initiated prior to the student's removal.

The bill provides an exemption from this verification requirement when a principal reasonably believes that any delay in the student's removal will increase the likelihood of harm to the student or others.

The bill has no fiscal impact to state or local governments.

The bill has an effective date of July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### **Parental Notification of Involuntary Examinations**

Florida law requires K-12 public schools to give parents “accurate and timely information regarding their child’s academic progress” and to inform parents “of ways they can help their child to succeed in school.”<sup>1</sup> To inform parents and enable them to direct and control their child’s education, current law specifies various parental notice requirements. For a traditional public or charter school student who is removed from school grounds, school transportation, or a school-sponsored activity and transported to an involuntary examination (Baker Act) receiving facility, a principal must immediately notify the student’s parent.<sup>2</sup> However, the principal may delay notification for up to 24 hours if the principal believes it is in the student’s best interest and a report has been made to the central abuse hotline pursuant to s. 39.201, F.S.<sup>3</sup>

##### **Involuntary Examination “Baker Act”**

A student with an acute mental health crisis may require emergency treatment to stabilize his or her condition. Florida law specifies criteria that a person must meet to be transported to a receiving facility for an involuntary examination; it also limits who may initiate the exam.<sup>4</sup> School personnel are not among those authorized to initiate an involuntary examination. Thus, in a school setting, often a law enforcement officer is called to evaluate the student and remove him or her from campus pursuant to s. 394.463(2)(a)2., F.S, if he or she appears to the law enforcement officer to meet criteria.

Students removed from school must be taken to either a public or a private facility that has been designated by the Department of Children and Families (DCF) as a Baker Act receiving facility. Under the Baker Act, a receiving facility must examine an involuntary patient within 72 hours of arrival.<sup>5</sup> During that 72 hours, an involuntary patient must be examined by a physician or a clinical psychologist, or by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist at a facility, to determine if criteria for involuntary services are met.<sup>6</sup> If the patient is a minor, the examination must be initiated within 12 hours.<sup>7</sup> Immediately after arrival, the facility is required to notify the minor’s parent, guardian, caregiver, or guardian advocate.<sup>8</sup> The facility may delay notification for up to 24 hours if the facility believes it is in the minor’s best interest and a report has been made to the central abuse hotline pursuant to s. 39.201, F.S.<sup>9</sup> The facility must continue notification attempts until notification is satisfied.<sup>10</sup>

In 2017, the Legislature created a task force within DCF<sup>11</sup> to address the issue of involuntary examination of minors age 17 years or younger.<sup>12</sup> The task force found that specific causes of increases in involuntary examinations of children are unknown. However, the task force provided a number of recommendations, including: increasing funding for mobile crisis teams; funding an

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<sup>1</sup> Section 1002.20, F.S.

<sup>2</sup> Sections 1002.20(3), F.S., and 1002.33(9)(q), F.S.

<sup>3</sup> *Id.*

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

<sup>5</sup> Section 394.463(2)(g), F.S.

<sup>6</sup> Section 394.463(2)(f), F.S.

<sup>7</sup> Section 394.463(2)(g), F.S.

<sup>8</sup> Section 394.4599(2)(c)1., F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 394.4599(2)(c)2., F.S.

<sup>11</sup> Ch. 2017-151, L.O.F.

<sup>12</sup> Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2017), <https://www.myflfamilies.com/service-programs/samh/publications/> (last visited Feb. 9, 2020).

adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis; and requiring crisis intervention training for school resource officers and other law enforcement officers who initiate Baker Act examinations from schools.<sup>13</sup>

As a follow up to the 2017 task force report, in 2019, the Legislature directed DCF to prepare a report on the initiation of involuntary examinations of minors age 17 years and younger and submit it by November 1 of each odd numbered year.<sup>14</sup> In the 2019 report, DCF recommended, among other things, ensuring that parents receive information about mobile crisis response teams and other community resources and supports upon their child's discharge.<sup>15</sup>

## Behavioral Health Crisis Management

To provide mental health and substance abuse services, DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. DCF contracts with seven managing entities (ME) across the state that in turn contract with local service providers<sup>16</sup> for the delivery of mental health and substance abuse services.<sup>17</sup> In FY 2018-2019, the network service providers under contract with the MEs served 339,093 individuals.<sup>18</sup>

MEs promote the development and implementation of a coordinated system of care<sup>19</sup> to enhance crisis services based on the no-wrong-door model or to meet specific needs identified in DCF's assessment of behavioral health services in this state.<sup>20</sup> There are several essential elements which make up a coordinated system of care, including crisis services mobile response teams, among others.<sup>21</sup>

Mobile response teams (MRT) provide readily available crisis care in a community-based setting and increase opportunities to stabilize individuals in the least restrictive setting to avoid the need for jail or hospital/emergency department utilization.<sup>22</sup> MRT providers are responsible for working with stakeholders to develop a community plan for immediate response and de-escalation, but also crisis and safety planning.<sup>23</sup> MRTs are available to individuals 25 years of age and under, regardless of their ability to pay, and must be ready to respond to any mental health emergency.<sup>24</sup> In 2018, there were 40 MRTs serving all 67 counties in Florida, targeting services to individuals under the age of 25.<sup>25</sup> Recent MRT monthly reports showed an 80 percent statewide average of diverting individuals from involuntary examination.<sup>26</sup>

After the Marjory Stoneman Douglas High School shooting in 2018, school mental health services began focusing on training educators on how to de-escalate crisis.<sup>27</sup> De-escalation is "the reduction in

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<sup>13</sup> *Id.*

<sup>14</sup> Ch. 2019-134, L.O.F.

<sup>15</sup> Florida Department of Children and Families, *Report on Involuntary Examination of Minors, 2019*, <https://www.myflfamilies.com/service-programs/samh/publications/> (last visited Feb. 9, 2020).

<sup>16</sup> Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

<sup>17</sup> Department of Children and Families, *Managing Entities*, <https://www.myflfamilies.com/service-programs/samh/managing-entities/> (last visited Feb. 9, 2020).

<sup>18</sup> Department of Children and Families, *Substance Abuse and Mental Health Triennial Plan Update for Fiscal Year* (Dec. 6, 2019), available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/SAMH%20Services%20Plan%202018%20Update.pdf>.

<sup>19</sup> Section 394.9082(5)(d), F.S.

<sup>20</sup> Section 394.4573(3), F.S.

<sup>21</sup> Section 394.4573(2), F.S.

<sup>22</sup> Department of Children and Families, *Mobile Response Teams Framework* (Aug. 29, 2018), <https://www.myflfamilies.com/service-programs/samh/publications/docs/Mobile%20Response%20Framework.pdf>.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> EducationDive, *De-escalation strategies effective in working with traumatized students*, <https://www.educationdive.com/news/de-escalation-strategies-effective-in-working-with-traumatized-students/519911/> (last visited Feb. 9, 2020).

the intensity of a conflict.”<sup>28</sup> De-escalation training provides individuals with strategies to calmly deal with people who are experiencing mental crisis. De-escalation teaches individuals dealing with a person in crisis to use non-physical skills such as listening, distracting the person, re-focusing the person on something positive, changing the subject, and empathizing with the person to defuse a potentially dangerous situation.<sup>29</sup>

### **Effects of Proposed Changes**

Traditional public and charter school principals have a duty to immediately notify a parent when a student is transported from school grounds, school transportation, or a school-sponsored activity and taken to a receiving facility for involuntary examination. In addition to this requirement the bill requires a principal to also verify that de-escalation strategies have been used with the student and outreach to a mobile response team has been initiated prior to the student’s removal.

The bill provides an exemption from this verification when a principal reasonably believes that any delay in the student’s removal will increase the likelihood of harm to the student or others.

The bill provides an effective date of July 1, 2020.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 1002.20, F.S., relating to K-12 student and parent rights.

**Section 2:** Amends s. 1002.33, F.S., relating to charter schools.

**Section 3:** Provides an effective date of July 1, 2020.

## **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:**

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<sup>28</sup> Florida Department of Children and Families, Center for Child Welfare, *Verbal De-escalation Training Video*, Part 2, at 8:11, (Aug. 8, 2014) available at <http://centervideo.forest.usf.edu/verbaldeescalation/start.html>.

<sup>29</sup> Northeast Washington Education Service District 101, Risk Management Services, *Using Verbal De-Escalation*, available at <https://personnel.ky.gov/KEAP/Verbal%20De-escalation%20presentation.pdf>.

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

Not applicable. The bill does not appear to affect county or municipal governments.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

Current law contains sufficient rule-making authority to implement the provisions of the bill.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2020, the PreK-12 Innovation Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably. The PCS differs from HB 1083 in the following ways:

- Requires that a principal verify that de-escalation strategies have been used and outreach to a MRT has been initiated prior to a student's removal, and allows a delay in notification if it is in the student's best interest and a report has been submitted to the central abuse hotline.
- Deletes the requirement that a principal notify a parent before a student's removal.
- Deletes state and local data reporting requirements.
- Deletes the requirement that the least restrictive mode of restraint be used when a student is transported for involuntary examination.
- Deletes the provision requiring crisis intervention training for school safety officers.
- Removes the provision requiring a school district's mental health allocation plan include procedures for verbal de-escalation.
- Deletes the provision that a school district must have Memorandums of Understanding with MRTs and that district policy must mandate MRTs are contacted prior to initiating a Baker Act.

The bill analysis is drafted to the committee substitute adopted by the PreK-12 Innovation Subcommittee.