

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 383 Involuntary Examinations of Minors

**SPONSOR(S):** Early Learning & Elementary Education Subcommittee, Plasencia and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 590

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Early Learning & Elementary Education Subcommittee	16 Y, 0 N, As CS	Wolff	Brink
2) Secondary Education & Career Development Subcommittee	14 Y, 0 N	Wolff	Sanchez
3) Children, Families & Seniors Subcommittee			
4) Education & Employment Committee			

### SUMMARY ANALYSIS

The bill requires a public school principal or designee to attempt notification to a student's parent before the student is transported to a receiving facility for an involuntary examination (Baker Act). The notification applies to a student's removal from school grounds, school transportation, or a school-sponsored activity. The bill does not change the allowable delay in parental notification when suspected child abuse has been reported.

The bill does not have a fiscal impact.

The bill provides for an effective date of July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### 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>1</sup> School personnel are not among those authorized to initiate an involuntary examination, unless they are one of the professional certificate holders identified in law, such as certain nurses, mental health counselors or social workers.<sup>2</sup> In a school setting, it is often a law enforcement officer who evaluates the student and determines if he or she appears to meet statutory criteria.<sup>3</sup> When the determination is made in the affirmative, then law enforcement removes the student from campus and provides transport to a receiving facility.

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>4</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>5</sup> If the patient is a minor, the examination must be initiated within 12 hours.<sup>6</sup> Immediately after arrival, the facility is required to notify the minor’s parent, guardian, caregiver, or guardian advocate.<sup>7</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.<sup>8</sup> The facility must continue notification attempts until notification is satisfied.<sup>9</sup>

In 2017, the Legislature created a task force within DCF<sup>10</sup> to address the issue of involuntary examination of minors age 17 years or younger.<sup>11</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 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>12</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>13</sup> In the 2019 report, DCF recommended, among other

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<sup>1</sup> Section 394.463, F.S.

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

<sup>3</sup> Section 394.463(2)(a)2., F.S.

<sup>4</sup> Section 394.463(2)(g), F.S.

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

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

<sup>7</sup> Section 394.4599(2)(c)1., F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 394.4599(2)(c)2., F.S.

<sup>10</sup> Ch. 2017-151, L.O.F.

<sup>11</sup> Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2017), available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/S17-005766-TASK%20FORCE%20ON%20INVOLUNTARY%20EXAMINATION%20OF%20MINORS.pdf> (last visited March 23, 2021).

<sup>12</sup> *Id.*

<sup>13</sup> Ch. 2019-134, L.O.F.

things, that the discharging facility ensure that parents receive information about mobile crisis response teams and other community resources and supports.<sup>14</sup>

### 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>15</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 a Baker Act receiving facility, a principal must immediately notify the student's parent.<sup>16</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.<sup>17</sup> Prior to involving law enforcement, the principal, or his or her designee, must verify that de-escalation strategies have been utilized and outreach to a mobile response team has occurred, unless they reasonably believe that any delay in removing the student will increase the likelihood of harm to the student or others.<sup>18</sup>

### School Health Services Program

Current law provides for the cooperation of the Department of Health and the Department of Education to supervise the administration of the school health services program under the School Health Services Act.<sup>19</sup> Each county health department is required to jointly develop a school health services plan with the district school board and the local school health advisory committee.<sup>20</sup> Among other mandatory components of the school health services plan, the plan must provide for immediate notification to the parent of a student removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination.<sup>21</sup>

### **Effects of Proposed Changes**

The bill requires a public school principal or designee to attempt notification to a student's parent before the student is transported to a Baker Act receiving facility. The notification applies to a student's removal from school grounds, school transportation or a school-sponsored activity. The bill does not change the allowable delay in parental notification when suspected child abuse has been reported.

The bill requires that the school health services plan provide for notification to a parent before the student is removed for an involuntary examination.

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

**Section 1.** Amends s. 381.056, F.S., revising parent, guardian, or caregiver notification requirements that must be met before an involuntary examination of a minor.

**Section 2.** Amends s. 1002.20, F.S., revising parent and guardian notification requirements that must be met before conducting an involuntary examination of a minor who is removed from school, school transportation, or a school-sponsored activity.

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<sup>14</sup> Florida Department of Children and Families, *Report on Involuntary Examination of Minors, 2019*, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors.pdf> (last visited March 23, 2021).

<sup>15</sup> Section 1002.20, F.S.

<sup>16</sup> Sections 1002.20(3)(l), F.S., and 1002.33(9)(q), F.S.

<sup>17</sup> Sections 1002.20(3)(l), F.S., and 1002.33(9)(q), F.S.

<sup>18</sup> Sections 1002.20(3)(l), F.S., and 1002.33(9)(q), F.S.

<sup>19</sup> Section 381.056(1) and (3), F.S.

<sup>20</sup> Section 381.056(4)(a), F.S.

<sup>21</sup> Section 381.056(4)(a)19., F.S.

**Section 3.** Amends s. 1002.33, F.S., revising parent and guardian notification requirements that must be met before an involuntary examination of a minor who is removed from a charter school, charter school transportation, or a charter school-sponsored activity.

**Section 4.** Provides an effective date of July 1, 2021.

## 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:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 9, 2021, the Early Learning & Elementary Education Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differs from HB 383 in the following ways:

- Removes the requirement that DCF specifically analyze the initiation of involuntary examinations of students who are removed from schools.
- Removes the requirement that the Office of Safe Schools, within the DOE, provide data for each school on the number of involuntary examinations which are initiated at a school, on school transportation, or from a school-sponsored activity and the number of children for whom an involuntary examination was initiated.
- Removes provisions amending district school board reporting requirements relating to involuntary examinations.
- Removes the requirement that school safety officers receive mental health crisis intervention training and the requirements for such training.
- Removes the requirement that school district and charter school mental health assistance allocation plans include both certain procedures for the use of deescalation strategies prior to initiating involuntary examinations and a memorandum of understanding between the school district, or charter school, and a local mobile crisis response service.

The bill analysis is drafted to the committee substitute adopted by the Early Learning & Elementary Education Subcommittee.