

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 899 Mental Health of Students
SPONSOR(S): Hunschofsky
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1240

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Early Learning & Elementary Education Subcommittee	18 Y, 0 N	Wolff	Brink
2) Children, Families & Seniors Subcommittee	15 Y, 0 N	Morris	Brazzell
3) Appropriations Committee			
4) Education & Employment Committee			

SUMMARY ANALYSIS

The Mental Health Assistance Allocation within the Florida Education Finance Program is intended to provide funding to assist school districts in establishing or expanding school-based mental health care, train educators and other school staff in detecting and responding to student mental health issues, and connecting children, youth, and families who may experience behavioral health issues with appropriate services. The bill revises requirements for a school district's annual mental health assistance allocation plan to include policies and procedures that require the provision of information on available mental health services and resources for students and their families. Additionally, the plan's policies and procedures must require school districts to provide any individual living in the same household as a student receiving services with information about available behavioral health services, when receipt of such services could benefit the well-being of the student.

The bill specifies that charter schools must comply with involuntary examination data reporting requirements established by the Legislature in 2021 for traditional public schools and requires the Department of Education to share school-related involuntary examination data with the Department of Children and Families (DCF) by July 1 each year. The bill requires that DCF use this data in its biennial analysis of involuntary examinations of minors in Florida.

The bill has an insignificant, negative fiscal impact on DCF and has no fiscal impact on local governments.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Student Mental Health

In 2018, the Marjory Stoneman Douglas High School Public Safety Act¹ created the Mental Health Assistance Allocation within the Florida Education Finance Program.² The allocation is intended to provide funding to assist school districts in establishing or expanding school-based mental health care, train educators and other school staff in detecting and responding to mental health issues, and connecting children, youth, and families who may experience behavioral health issues with appropriate services.³ For the 2021-2022 school year, \$120 million was appropriated for the allocation.⁴ Each school district receives a minimum of \$100,000, and the remaining balance is allocated based on each district's proportionate share of the state's total unweighted full-time equivalent student enrollment.⁵ Eligible charter schools are entitled to a proportionate share of the school district's allocation.⁶

School districts are prohibited from using the funds allocated under this section to supplant funds from other operating funds used for the provision of mental health services. These funds may not be used for salary increases or bonuses.⁷

To receive allocation funds, a school district must develop and submit to the district school board for approval a detailed plan outlining its local program and planned expenditures.⁸ A school district's plan must include all district schools, including charter schools, unless a charter school elects to submit a plan independently from the school district.⁹ Each approved plan must be submitted to the commissioner by August 1 each year.¹⁰

The plan must be focused on a multitiered system of supports to deliver evidence-based mental health care assessment, diagnosis, intervention, treatment, and recovery services. Supports and services under the allocation are provided to students with one or more mental health or co-occurring substance abuse diagnoses and to students at high risk of such diagnoses. The provision of these services must be coordinated with a student's primary mental health care provider and with other mental health providers involved in the student's care.¹¹

Plans must include elements such as:¹²

- Direct employment of school-based mental health service providers to expand and enhance school-based student services and reduce the ratio of students to staff to align with nationally recommended ratio models;
- Contracts or interagency agreements with one or more local community behavioral health providers or providers of Community Action Team services to provide behavioral health staff presence and services at district schools;

¹ Chapter 2018-3, L.O.F.

² Section 1011.62(14), F.S.

³ *Id.*

⁴ Specific Appropriations 7 and 90, s. 2, ch. 2021-36, L.O.F.

⁵ Section 1011.62(14), F.S.; *See also* Florida Department of Education, *Florida Education Finance Program 2021-22 Second Calculation*, p. 33, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/2122FEFPPSecondCalc.pdf>.

⁶ Section 1011.62(14), F.S.

⁷ *Id.*

⁸ Section 1011.62(14)(a)1.-2., F.S.

⁹ *Id.*

¹⁰ Section 1011.62(14)(c), F.S.

¹¹ Section 1011.62(14)(b), F.S.

¹² *Id.*

- Policies and procedures which ensure students who are referred to a school-based or community-based mental health service provider for mental health screening are assessed within 15 days of referral, and that school-based mental health services are initiated within 15 days after identification and assessment and community-based mental health services are initiated within 30 days after school or district referral;
- Policies and procedures, to be implemented prior to the initiation of an involuntary examination by a mental or behavioral health provider or school-based law enforcement officer who has completed crisis intervention training, that include attempting to verbally de-escalate a student in crisis, including strategies to de-escalate a student with a developmental disability in crisis; and
- Policies requiring that school or law enforcement personnel, prior to initiating an involuntary examination, make a reasonable attempt to contact a mental health professional authorized to initiate an involuntary examination, unless the student in crisis poses an imminent danger to him- or herself or others.

School districts are also required to report program outcomes and expenditures for the previous fiscal year by September 30 each year.¹³ The report must, at a minimum, provide the number of each of the following:¹⁴

- Students who receive screenings or assessments;
- Students who are referred to either school-based or community-based providers for services;
- Students who receive either school-based or community-based interventions;
- School-based or community-based mental health providers that were paid out of the mental health assistance allocation; and
- Contract-based collaboration efforts or partnerships with community mental health programs.

Mental Health Data Reporting & Analysis

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 examination.¹⁵ 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.¹⁶ 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.¹⁷ When the determination is made in the affirmative, then transport of a student to a receiving facility occurs pursuant to a county transportation plan, which may include transport by a law enforcement officer..¹⁸

Professionals who initiate involuntary examinations are required to report the circumstances of the mental health crisis and make an affirmative statement that the person examined meets statutory criteria.¹⁹ This information is recorded on a standardized form, which is given to the Department of Children and Families (DCF).²⁰ The DCF contracts with the Louis de la Parte Florida Mental Health Institute at the University of South Florida (Institute) to perform data analysis and create an annual report which uses the information from these forms.²¹ The Institute also analyzes other information relating to mental health and acts as a provider of crisis services to certain patients.²² Among other sources of information and data, current law

¹³ Section 1011.62(14)(d), F.S.

¹⁴ *Id.*

¹⁵ Section 394.463, F.S.

¹⁶ Section 394.463(2)(a), F.S.

¹⁷ Section 394.463(2)(a)2., F.S.

¹⁸ Section 394.462(1), F.S.

¹⁹ Section 394.463(2)(a)3., F.S.; Rule 65E-5.280(3), F.A.C.

²⁰ Section 394.463(2)(a)(3), F.S.; Rules 65E-5.120 and 65E-5.280(3), F.A.C.

²¹ University of South Florida, Baker Act Reporting Center, *About Us*, <https://www.usf.edu/cbcs/baker-act/about/index.aspx> (last visited Jan. 7, 2022).

²² See University of South Florida, Baker Act Reporting Center, *What We Do*, <https://www.usf.edu/cbcs/baker-act/about/whatwedo.aspx> (last visited Jan. 7, 2022); and University of South Florida, Louis de la Parte Florida Mental Health Institute, *About the Institute*, <https://www.usf.edu/cbcs/fmhi/about/> (last visited Jan. 7, 2022).

requires the Office of Safe Schools within the Department of Education (DOE) to provide data to the Institute to support the evaluation of mental health services in the state.²³

In addition to the annual report, the Legislature required the DCF to investigate the number of involuntary examinations of minors and provide recommendations for process improvement. In 2017, a DCF task force issued a report concluding that involuntary examinations of minors were increasing but that specific causes of the increase are unknown.²⁴ The increase in Florida was consistent with national statistics, and the report noted that the increase could be a reflection of the increase in the identification of mental health disorders among children and young adults.²⁵ Additionally, the task force suggested that the increase in involuntary examinations among children could be the result of recent initiatives designed to improve Florida's mental health system and provide earlier diagnosis and treatment.²⁶

As a follow up to the 2017 task force report, in 2019, the Legislature required the DCF to publish a report every other year to examine the initiation of involuntary examinations for minors. The initial report published pursuant to this requirement found that of the 36,078 involuntary examinations of minors in FY 2017-2018, ²⁷ only 20 percent were initiated while the child was in a school setting.²⁸ Of the number of all involuntary examinations in that year, minors represented only 18 percent of the total.²⁹ From FY 2013-2014 to FY 2017-2018, statewide involuntary examinations of children increased 19 percent, while only increasing by 14 percent for young adults (ages 18-24) and 16 percent overall.³⁰

In 2021, the Legislature³¹ required the DCF to include in its analysis data on the initiation of involuntary examinations of students who are removed from schools, to identify trends in involuntary examinations involving students, and to make recommendations to encourage the use of alternatives to involuntary examinations.³² To aid the DCF in this task, school districts are required to annually report to the DOE the number of involuntary examinations initiated at a school, on school transportation, or at a school-sponsored event.³³ However, the law does not explicitly require charter schools to report such data to the DOE. Additionally, the DOE is required to share this data with the DCF, but the law does not provide a timeframe for doing so.³⁴ The law also is silent on whether the DCF shall use school district-reported data in its analysis.

In its 2021 biennial analysis of involuntary examinations of minors, the DCF reported 24,171 involuntary examinations of minors under the age of 18 for FY 2019-2020 and that these made up 18 percent of all (128,193) involuntary examinations that year.³⁵ Based on preliminary data from FY 2020-2021, DCF reports a decrease in involuntary examinations of children occurring in the school setting, with fewer than 15 percent of such involuntary examinations being initiated at schools.³⁶

Effect of Proposed Changes

²³ Section 1001.212(7), F.S.

²⁴ Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2017), p. 21, <https://www.myflfamilies.com/service-programs/samh/publications/docs/S17-005766-TASK%20FORCE%20ON%20INVOLUNTARY%20EXAMINATION%20OF%20MINORS.pdf>.

²⁵ *Id.* at 21-22.

²⁶ *Id.* at 24.

²⁷ Florida Department of Children and Families, *Report on Involuntary Examinations of Minors*, (Nov. 2019), available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors.pdf>.

²⁸ *Id.* at 14.

²⁹ *Id.* at 25.

³⁰ *Id.*

³¹ Chapter 2021-176, L.O.F.

³² Section 394.463(4), F.S.

³³ Section 1006.07(10), F.S.

³⁴ *See* s. 1001.212(7), F.S.

³⁵ Florida Department of Children and Families, *Report of Involuntary Examinations of Children*, (Nov. 2021), p. 8, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors%20-%202021.pdf>.

³⁶ *Id.* at 9. The report does note that for 8 percent of Baker Acts the setting of the initiation was not reported.

The bill explicitly requires charter schools to report involuntary examinations data.

The bill directs the DOE to share the school district reported involuntary examination data with the DCF no later than July 1 each year and requires the DCF to use this data in its analysis for its biennial report on involuntary examinations of minors.

The bill revises requirements for a school district's annual mental health assistance allocation plan to include policies and procedures that require the provision of information on available mental health services and resources for students and their families. Specifically, the bill requires school districts to:

- Provide a parent of a student receiving services information about available behavioral health services through the school or local community-based behavioral health providers. To meet this requirement, a school may provide internet addresses of online directories or guides for local behavioral health services; and
- Provide any individual living in the same household as a student receiving services under this section information about behavioral health services available through other delivery systems or payors for which they may qualify, if such services appear to be needed or enhancements in their behavioral health would contribute to the improved well-being of the student.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 394.463, F.S.; revising data the Department of Children and Families is required to analyze when creating its annual report on the initiation of certain involuntary examinations.
- Section 2:** Amends s. 1002.33, F.S.; requiring charter schools to be in compliance with laws relating to reporting involuntary examinations.
- Section 3:** Amends s. 1006.07, F.S.; requiring the Department of Education, by a specified date, to share with the Department of Children and Families data received from school districts relating to involuntary examinations.
- Section 4:** Amends s. 1011.62, F.S.; revising requirements for plans relating to mental health assistance allocations.
- Section 5:** Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an insignificant, negative fiscal impact on DCF related to reporting requirements under DCF's contact with the University of South Florida's Baker Act Reporting Center. DCF estimates the additional reporting element would require an additional \$30,000.³⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

School districts may incur additional costs related to new reporting requirements relating to staff time and programming.³⁸

³⁷ Department of Children and Families Agency Analysis of 2022 House Bill 899 (Jan. 14, 2022).

³⁸ Id.

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

None.