

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 Appropriations

BILL: CS/SB 590

INTRODUCER: Appropriations Committee and Senator Harrell

SUBJECT: Involuntary Examinations of Minors

DATE: April 21, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Jahnke</u>	<u>Bouck</u>	<u>ED</u>	Favorable
3.	<u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

I. Summary:

CS/SB 590 requires public and charter schools to make a reasonable attempt to notify the parents of a minor student before the student is removed from school, school transportation, or a school-sponsored activity for an involuntary mental health examination. The bill provides that a school principal or designee may delay notification if they believe it is necessary to avoid jeopardizing the health and safety of the student.

The bill requires all school safety officers to undergo crisis intervention training. The bill also requires schools to contact a health care practitioner capable of initiating a Baker Act in person or via telehealth prior to a Baker Act being initiated. The bill mandates the collection of data by school districts and the Department of Children and Families (DCF) relating to the number and frequency of involuntary examinations of minors initiated by schools.

The bill specifies that parents of public school students have the right to timely notification of threats, unlawful acts, and significant emergencies, as well as access to school safety and discipline incidents as reported in the school environmental safety incident report.

The bill adds requirements to the student code of conduct to include:

- Criteria for recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to expulsion or arrest; and
- Criteria for assigning a student who commits a petty act of misconduct, to a school-based intervention program. If a student's assignment is based on a noncriminal offense, the student's participation in a school-based intervention program may not be entered into the Department of Juvenile Justice Information System Prevention Web.

The bill allows district school board policies to provide accommodations for drills conducted by exceptional education centers, and requires district school boards to establish certain emergency

response and emergency preparedness policies and procedures. The bill also requires timely notice to parents of specified unlawful acts and significant emergency situations on school grounds, school transportation, or school-sponsored activities.

The bill will have an indeterminate, but likely insignificant, negative fiscal impact on public and charter schools and the DCF.

The bill is effective July 1, 2021.

II. Present Situation:

Baker Act

The Florida Mental Health Act, otherwise known as the Baker Act, was enacted in 1971 to revise the state's mental health commitment laws.¹ The Act includes legal procedures for mental health examination and treatment, including voluntary and involuntary examinations. It additionally protects the rights of all individuals examined or treated for mental illness in Florida.²

Involuntary Examination and Receiving Facilities

Individuals in an acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.³ An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:⁴

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

An involuntary examination may be initiated by any of the following means:

- A circuit or county court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination and specifying the findings on which that conclusion is based;⁵
- A law enforcement officer may take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to an

¹ Sections 394.451-394.47891, F.S.

² Section 394.459, F.S.

³ See Sections 394.4625 and 394.463, F.S.

⁴ Section 394.463(1), F.S.

⁵ Section 394.463(2)(a)1., F.S.

appropriate, or the nearest, facility within the designated receiving system pursuant to s. 394.462, F.S., for examination;⁶ or

- Any of the following healthcare professionals may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination:
 - Physicians;
 - Clinical psychologists;
 - Psychiatric nurses;
 - Advanced practice registered nurse registered under s. 464.0123, F.S.;
 - Mental Health Counselors;
 - Marriage and family therapists; or
 - Clinical social workers.⁷

Involuntary patients 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. The purpose of a receiving facility is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation of the patient to the appropriate service provider.⁸ A public receiving facility is a facility that has contracted with a managing entity to provide mental health services to all persons, regardless of their ability to pay, and is receiving state funds for such purpose.⁹ Funds appropriated for Baker Act services may only be used to pay for services to diagnostically and financially eligible persons, or those who are acutely ill, in need of mental health services, and who are the least able to pay.¹⁰

A Crisis Stabilization Unit (CSU) is a specialized public receiving facility that receives state funding to provide services to individuals showing acute mental health disorders.¹¹ The purpose of a crisis stabilization unit is to stabilize and redirect a client to the most appropriate and least restrictive community setting available, consistent with the client's needs.¹² CSUs screen, assess, and admit for stabilization individuals who voluntarily present themselves to the unit, as well as individuals who are brought to the unit on an involuntary basis.¹³ CSUs provide patients with 24-hour observation, medication prescribed by a physician or psychiatrist, and other appropriate services.¹⁴ Individuals often enter the public mental health system through CSUs.¹⁵ For this reason, crisis services are a part of the comprehensive, integrated, community mental health and substance abuse services established by the Legislature in the 1970s to ensure continuity of care for individuals.¹⁶

⁶ Section 394.463(2)(a)2., F.S.

⁷ Section 394.463(2)(a)3., F.S.

⁸ Section 394.455(40), F.S.

⁹ Section 394.455(38), F.S.

¹⁰ Rule 65E-5.400(2), F.A.C.

¹¹ Section 394.875, F.S.

¹² Section 394.875(1)(b) and (c)

¹³ Section 394.875(1)(a), F.S.

¹⁴ *Id.*

¹⁵ Florida Senate, Budget Subcommittee on Health and Human Services Appropriations, *Crisis Stabilization Units*, (Interim Report 2012-109), p. 2 (Sept. 2011), available at <https://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-109bha.pdf> (last visited April 19, 2021).

¹⁶ Sections 394.451-394.47891, F.S.

Currently, there are 122 Baker Act receiving facilities in the state, including 54 public receiving facilities and 68 private receiving facilities.¹⁷ Of the 54 public receiving facilities, 40 are designated as CSUs.¹⁸

Under the Baker Act, a receiving facility must examine an involuntary patient within 72 hours of arrival.¹⁹ During those 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 the criteria for involuntary services are met.²⁰ If the patient is a minor, the examination must be initiated within 12 hours.²¹

Within that 72-hour examination period, or if the 72 hours ends on a weekend or holiday, no later than the next business day, one of the following must happen:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to a placement as a voluntary patient and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.²²

Mental Health Services for Students

The Florida Department of Education (DOE), through the Bureau of Exceptional Education and Student Services and the Office of Safe Schools, promotes a system of support, policies, and practices that focus on prevention and early intervention to improve student mental health and school safety. Florida law requires instructional personnel to teach comprehensive health education that addresses concepts of mental and emotional health, as well as substance use and abuse.²³ Student Services personnel, which includes school psychologists, school social workers, and school counselors, are classified as instructional personnel responsible for advising students regarding personal and social adjustments, and provide direct and indirect services at the district and school level.²⁴

State funding for school districts' mental health services is provided primarily by legislative appropriations, the majority of which is distributed through an allocation through the Florida Education Finance Program (FEFP) to each district. In addition to the basic amount for current operations for the FEFP, the Legislature may appropriate categorical funding for specified

¹⁷ The Department of Children and Families, *Designated Baker Act Receiving Facilities*, (April 19, 2021), available at <https://www.myflfamilies.com/service-programs/samh/crisis-services/docs/baker/Baker%20Act%20Receiving%20Facilities.pdf> (last visited April 19, 2021). Hospitals can also be designated as public receiving facilities.

¹⁸ *Id.*

¹⁹ Section 394.463(2)(g), F.S.

²⁰ Section 394.463(2)(f), F.S.

²¹ Section 394.463(2)(g), F.S.

²² *Id.*

²³ Section 1003.42(2)(n), F.S.

²⁴ Section 1012.01(2)(b), F.S.

programs, activities, or purposes.²⁵ Each district school board must include the amount of categorical funds as a part of the district annual financial report to the DOE and the DOE must submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were spent.²⁶

The law allows district school boards and state agencies administering children's mental health funds to form a multiagency network to provide support for students with severe emotional disturbance.²⁷ The program goals for each component of the multiagency network are to:

- Enable students with severe emotional disturbance to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living;
- Develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services;
- Provide programs and services as close as possible to the student's home in the least restrictive manner consistent with the student's needs; and
- Integrate a wide range of services necessary to support students with severe emotional disturbances and their families.²⁸

The DOE awards grants to district school boards for statewide planning and development of the multiagency Network for Students with Emotional or Behavioral Disabilities (SEDNET).²⁹ SEDNET is a network of 19 regional projects that are composed of major child-serving agencies, community-based service providers, and students and their families. Local school districts serve as fiscal agents for each local regional project.³⁰ SEDNET focuses on developing interagency collaboration and sustaining partnerships among professionals and families in the education, mental health, substance abuse, child welfare, and juvenile justice systems serving children and youth with and at risk of emotional and behavioral disabilities.³¹

Mental Health Allocation

The mental health assistance allocation was established in 2018³² to provide funding to assist school districts in establishing or expanding school-based mental health care. These funds must be allocated annually in the General Appropriations Act or other law to each eligible school district. Each school district must receive a minimum of \$100,000 with the remaining balance allocated based on each school district's proportionate share of the state's total unweighted full-time equivalent student enrollment. Eligible charter schools are entitled to a proportionate share of district funding. At least 90 percent of a district's allocation must be expended on the elements

²⁵ Section 1011.62(6), F.S.

²⁶ *Id.*

²⁷ See s. 1006.04(1)(a), F.S.

²⁸ Section 1006.04(1)(b), F.S.

²⁹ Section 1006.04(2), F.S.

³⁰ Fiscal agencies include the Brevard, Broward, Clay, Columbia, Miami-Dade, Escambia, Hendry, Hernando, Hillsborough, Levy, Liberty, Orange, Palm Beach, Pinellas, Polk, St. Lucie, Volusia, and Washington school districts. Florida Department of Education, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects*, January 2017, at p. 11, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf> (last visited April 19, 2021).

³¹ The Florida Department of Education, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects*, January 2017, p. 11, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf> (last visited April 19, 2021).

³² Section 29, ch. 2018-4, L.O.F.

specified in law. The allocated funds may not replace funds that are provided for this purpose from other operating funds or be used to increase salaries or provide bonuses. School districts are encouraged to maximize third-party health insurance benefits and Medicaid claiming for services, where appropriate.³³

Before the distribution of the allocation:

- The school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval.
- A charter school must develop and submit a detailed plan outlining the local program and planned expenditures to its governing body for approval and it must be provided to the charter school's sponsor after the plan is approved by the governing body.
- The required plans must be focused on delivering evidence-based mental health care treatment to children and include all of the following elements:
 - Provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high risk of such diagnoses.
 - Coordination of such services with a student's primary care provider and with other mental health providers involved in the student's care.
 - Direct employment of such service providers, or a contract-based collaborative effort or partnership with one or more local community mental health programs, agencies, or providers.³⁴

School districts must submit approved plans, including approved plans of each charter school in the district, to the commissioner by August 1 of each fiscal year.³⁵

Beginning September 30, 2019, and annually by September 30, each school district must submit to the DOE a report on its program outcomes and expenditures for the previous fiscal year which, at a minimum, must include the number of each of the following:

- Students who receive screenings or assessments.
- Students who are referred for services or assistance.
- Students who receive services or assistance.
- Direct employment service providers employed by each school district.
- Contract-based collaborative efforts or partnerships with community mental health programs, agencies, or providers.³⁶

Office of Safe Schools

The Office of Safe Schools (OSS) in the DOE serves as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning.³⁷ The OSS requirements include:

³³ Section 1011.62(16), F.S.

³⁴ Section 1011.62(16)(b), F.S.

³⁵ Section 1011.62(16)(c), F.S.

³⁶ Section 1011.62(16)(d), F.S.

³⁷ Section 1001.212, F.S. *See also* The Florida Department of Education, *Office of Safe Schools*, available at <http://www.fldoe.org/safe-schools/> (last visited April 19, 2021).

- Establishing and updating as necessary a school security risk assessment tool³⁸ for use by school districts and charter schools.
- Providing ongoing professional development opportunities to school district personnel.
- Providing a coordinated and interdisciplinary approach to providing technical assistance and guidance to school districts on safety and security and recommendations to address findings identified in the school security risk assessment.³⁹
- Developing and implementing a School Safety Specialist Training Program for school safety specialists. The office must develop the training program based on national and state best practices on school safety and security and must include active shooter training.⁴⁰
- Reviewing and providing recommendations on the security risk assessments.

Safe-School Officers

Florida law requires each district school board and school district superintendent to partner with law enforcement agencies, to establish or assign one or more safe-school officers at each school facility within the district by implementing one or more safe-school officer options that best meet the needs of the school district.⁴¹ These options include:

- Establishing a school resource officer program, through a cooperative agreement with law enforcement agencies.⁴²
- Commissioning one or more school safety officers. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers.⁴³
- Participating in the Coach Aaron Feis Guardian Program if such program is established by the sheriff.⁴⁴

Coach Aaron Feis Guardian Program

The Coach Aaron Feis Guardian Program (guardian program) was established in 2018⁴⁵ as an option for school districts to meet the safe-school officer requirements in law.⁴⁶ Each sheriff has the discretion to establish a guardian program to aid in the prevention or abatement of active assailant incidents on school premises. School employees, except individuals who exclusively perform classroom duties as classroom teachers as defined in law,⁴⁷ may participate in the guardian program. The sheriff who chooses to establish a guardian program shall appoint as school guardians, without the power of arrest, school employees who volunteer and who comply with all of the following:

- Hold a valid license issued under s. 790.06, F.S. (license to carry a concealed firearm).

³⁸ Section 1006.1493, F.S., provides for the Florida Safe Schools Assessment Tool (FSSAT).

³⁹ Section 1006.07(6)(a)4., F.S., requires a school security risk assessment at each public school using the school security risk assessment tool (FSSAT) developed by the OSS.

⁴⁰ Section 1006.07(6)(a), F.S., requires each district school superintendent to designate a school administrator as a school safety specialist for the district.

⁴¹ Section 1006.12, F.S.

⁴² Section 1006.12(1), F.S.

⁴³ Section 1006.12(2), F.S.

⁴⁴ Section 1006.12(3), F.S.

⁴⁵ Section 26, ch. 2018-3, L.O.F.

⁴⁶ Section 1006.12, F.S.

⁴⁷ Section 1012.01(2)(a), F.S.

- Complete 132 total hours of comprehensive firearm safety and proficiency training conducted by Criminal Justice Standards and Training Commission-certified instructors, which must include:
 - Eighty hours of firearms instruction based on the Criminal Justice Standards and Training Commission's Law Enforcement Academy training model, which must include at least 10 percent but no more than 20 percent more rounds fired than associated with academy training. Program participants must achieve an 85 percent pass rate on the firearms training.
 - Sixteen hours of instruction in precision pistol.
 - Eight hours of discretionary shooting instruction using state-of-the-art simulator exercises.
 - Eight hours of instruction in active shooter or assailant scenarios.
 - Eight hours of instruction in defensive tactics.
 - Twelve hours of instruction in legal issues.
- Pass a psychological evaluation administered by a psychologist licensed under ch. 490, F.S., and designated by the Florida Department of Law Enforcement (FDLE) and submit the results of the evaluation to the sheriff's office. The FDLE may provide the sheriff's office with mental health and substance abuse data for compliance with this requirement.
- Submit to and pass an initial drug test and subsequent random drug tests in accordance with the requirements of s. 112.0455, F.S.,⁴⁸ and the sheriff's office.
- Successfully complete ongoing training, weapon inspection, and firearm qualification on at least an annual basis.
- Successfully complete at least 12 hours of a certified nationally recognized diversity training program.⁴⁹

A sheriff must issue a school guardian certificate to individuals who meet the requirements specified in law.⁵⁰ The sheriff must maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school guardian appointed by the sheriff.⁵¹

School Safety Drills

District school boards must formulate and prescribe policies and procedures for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, active shooter and hostage situations, and bomb threats, for all students and faculty at all district K-12 public schools.⁵²

Drills for active shooter and hostage situations must be conducted in accordance with developmentally appropriate and age-appropriate procedures at least as often as other emergency drills. District school board policies must establish model emergency management and emergency preparedness procedures, including emergency notification procedures.⁵³

⁴⁸ Section 112.0455, F.S., relates to the Drug-Free Workplace Act.

⁴⁹ Section 30.15(1)(k), F.S.

⁵⁰ Section 30.15(1)(k)2., F.S.

⁵¹ *Id.*

⁵² Section 1006.07(4), F.S.

⁵³ *Id.*

Parent and Student Rights

A parent of a K-12 public school student is afforded many statutory rights.⁵⁴ Each school district is required to:

- Provide a parent with specific information about his or her child’s educational progress, comprehensive information about opportunities for involvement in the child’s education, and a framework for building and strengthening partnerships among parents and school district personnel.⁵⁵
- Afford a parent the opportunity to enroll his or her child in instruction for exceptional students or challenge a district school board’s determination of the child’s eligibility for a gifted or special education program.⁵⁶
- Establish a policy enabling a parent to object to and contest specific instructional materials.⁵⁷
- Notify a parent and obtain his or her consent before a public school student may be referred to or offered contraceptive services at school facilities or travel in a privately owned motor vehicle to a school function.⁵⁸

Juvenile Diversion Programs

Juvenile diversion programs (diversion programs) are alternatives to juvenile arrest. A juvenile arrest may be diverted based on comprehensive knowledge of the juvenile’s criminal history, prior contacts with law enforcement, and prior program enrollment.⁵⁹

A civil citation or similar prearrest diversion program for misdemeanor offenses must be established in each judicial circuit in the state and operated by the state attorney of each circuit.⁶⁰ A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent civil citation or similar prearrest diversion program as long as the program was in operation as of October 1, 2018, reviewed by the state attorney in the circuit, and determined to be substantially similar to the civil citation or similar prearrest diversion program developed by the circuit.⁶¹ Each civil citation or similar prearrest diversion program must enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program.⁶²

Compliance with community-based diversion programs includes all reporting requirements, specifically that criminal diversions be entered into Juvenile Justice Information System (JJIS)

⁵⁴ Section 1002.20, F.S.

⁵⁵ Section 1002.23, F.S.

⁵⁶ Section 1003.57, F.S.

⁵⁷ Section 1006.28(2)(a)2.-3., F.S.

⁵⁸ Sections 1002.20(3)(e) and (22)(c), F.S.

⁵⁹ Marjory Stoneman Douglas High School Public Safety Commission (Commission), *Report Submitted to the Governor, Speaker of the House of Representatives and Senate President* (Nov. 1, 2019), available at <http://www.fdle.state.fl.us/MSDHS/MSD-Report-2-Public-Version.pdf>, at 131 (last visited April 19, 2021) (hereinafter cited as “The Commission Report”).

⁶⁰ Section 985.12(2)(a) and (c), F.S.

⁶¹ Section 985.12(2)(c), F.S.

⁶² Section 985.12(2)(f), F.S.

Prevention Web.⁶³ School districts may still operate their own “diversion programs” that address non-criminal conduct, such as Student Code of Conduct violations and other misbehavior.⁶⁴

In 2019, the Governor issued Executive Order 19-45, providing for an immediate statewide audit of all 67 county school districts to determine any and all types of school-based discipline diversion programs in place.⁶⁵ The DOE and Department of Juvenile Justice worked together to complete the audit and review of diversion programs.⁶⁶ The audit focused on identification of programs serving youth with offenses that could be deemed delinquent.⁶⁷ The audit found that as of July 1, 2019, 58 of the 67 school districts in Florida do not operate school-based diversion programs for potentially delinquent offenses,⁶⁸ six school districts operate programs that supplement traditional handling through school-based discipline and/or referral to law enforcement,⁶⁹ and three school districts operate school-based diversion programs.⁷⁰

Safety Incident Reporting

Each district school board is required to adopt policies to ensure the accurate and timely reporting of incidents related to school safety and discipline.⁷¹ The School Environmental Safety Incident Reporting (SESIR) system collects data on incidents related to school safety and discipline that occur on school grounds, school transportation, and off-campus, school-sponsored events.⁷²

The law requires each school principal to ensure that standardized forms prescribed by SBE rule are used to report data concerning school safety and discipline to the Department of Education (DOE).⁷³

⁶³ *Id.*

⁶⁴ The Commission Report at p. 133.

⁶⁵ Fla. Exec. Order 19-45 (Feb. 13, 2019), available at <https://www.flgov.com/wp-content/uploads/2019/02/EO-19-45.pdf> (last visited April 20, 2021).

⁶⁶ *Id.*

⁶⁷ Florida Department of Juvenile Justice, *Statewide Audit of School-Based Diversion Programs* (July 1, 2019), at 6, available at <http://www.fdle.state.fl.us/MSDHS/Meetings/2019/August/August-14-1015am-Report-on-Statewide-Assessment-DJ.aspx>.

⁶⁸ *Id.* at 20 The 58 districts indicated that non-criminal infractions are handled through school-based consequences such as in-school suspension or out-of-school suspension, and youth who have committed misdemeanors or felonies are referred to law enforcement, typically the school resource officer.

⁶⁹ *Id.* at 6 The districts indicated that delinquent offenses are referred to law enforcement for handling, and youth may also participate in the overlay program.; *Id.* at 21 The six districts include Duval, Hendry, Hillsborough, Levy, Marion and Martin Counties.

⁷⁰ *Id.* at 22-23. The three counties include Franklin, Broward, and Sarasota. The audit found that Sarasota operates a program that could be described as an “overlay” program but the program does not enter data into the Juvenile Justice Information System Prevention Web.

⁷¹ Section 1006.07(9), F.S.

⁷² FSU Center of Criminology and Florida Department of Education *The Florida School Environmental Safety and Incident Reporting (SESIR) system* (2006), available at <http://criminology.fsu.edu/wp-content/uploads/The-Florida-School-Environmental-Safety-Incident-Reporting-SESIR-System.pdf>, at p. 1 (last visited April 19, 2021).

⁷³ Section 1006.09(6), F.S.

Children and the Baker Act

Over a 15-year period, the number of children subject to involuntary commitments under the Baker Act have increased at a faster pace than any other age group.⁷⁴ Children are incapable of legally consenting to medical intervention needed to gauge whether an involuntary examination under the Baker Act is necessary.⁷⁵ School officials and mental health professionals have stressed the need for additional mobile response teams, greater access to telehealth technology in accessing the teams, and more school psychologists as methods of addressing the growing number of children subjected to the Baker Act.⁷⁶ Over 130 law enforcement agencies across the state have policies in place requiring a parent or family member of a minor to be contacted prior to initiating a Baker Act; however there is no currently no statewide statutory requirement for parental or family notification.⁷⁷

Report on Involuntary Examinations of Minors

In 2017, the Legislature created a task force within the DCF⁷⁸ to address the issue of involuntary examination of minors age 17 years or younger, specifically by:⁷⁹

- Analyzing data on the initiation of involuntary examinations of minors;
- Researching the root causes of and trends in such involuntary examinations;
- Identifying and evaluating options for expediting the examination process; and
- Identifying recommendations for encouraging alternatives to or eliminating inappropriate initiations of such examinations.

The task force found that specific causes of increases in involuntary examinations of children are unknown. Possible factors cited in the task force report include:

- Increase in mental health concerns:
 - In 2017, 31.5 percent of high school students experienced periods of persistent feelings of sadness or hopelessness within the past year, an increase from 28.5 percent in 2007.
 - In 2017, 17.2 percent of high school students seriously considered attempting suicide in the past year, an increase from 14.5 percent in 2007.⁸⁰
- Social stressors such as parental substance use, poverty and economic insecurity, mass shootings, and social media and cyber bullying.⁸¹

⁷⁴ Lynn Hatter, WFSU Public Media, *Committed: Improving Florida's Baker Act for Children a Challenge*, December 17, 2020, available at <https://news.wfsu.org/2020-12-17/committed-improving-floridas-baker-act-for-children-a-challenge> (last visited April 19,, 2021).

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Ch. 2017-151, LO.F.

⁷⁹ The Florida Department of Children and Families, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2017), p. 1, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/S17-005766-TASK%20FORCE%20ON%20INVOLUNTARY%20EXAMINATION%20OF%20MINORS.pdf> (last visited April 19,, 2021) (hereinafter cited as "The 2017 Task Force Report").

⁸⁰ The DCF *Task Force Report on Involuntary Examination of Minors*, (Nov. 2017), p. 6, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors.pdf> (last visited April 19,, 2021) (hereinafter cited as "The 2017 Task Force Report").

⁸¹ The DCF, *Task Force Report on Involuntary Examination of Minors*, (Nov. 2019), available at <https://www.myflfamilies.com/service->

- Lack of availability of mental health services, due to wait lists for services, limitations on coverage or approval, lack of funding for prevention and diversion, and shortage of psychiatrists and other mental health professionals.
 - Among children ages 12 to 17 in Florida, approximately 13 percent experienced a major depressive episode in the past year, but only about 33 percent of children experiencing a major depressive episode in the past year receive treatment.⁸²

As a follow up to the 2017 task force report, in 2019, the Legislature instructed the DCF to prepare a report on the initiation of involuntary examinations of minors age 17 and younger and submit it by November 1 of each odd numbered year.⁸³ As part of the 2019 report, the DCF was required to:

- Analyze data on the initiation of involuntary examinations of minors;
- Identify any patterns or trends and cases in which involuntary examinations are repeatedly initiated on the same child;
- Study root causes for such patterns, trends, or repeated involuntary examinations; and
- Make recommendations for encouraging alternatives to and eliminating inappropriate initiations of such examinations.⁸⁴

Task Force Recommendations

Among the 2017 task force report recommendations were to:

- Amend the statute to increase the number of days that the receiving facility has to submit required forms to the DCF to capture additional data;
- Expedite involuntary exams by expanding the list of mental health professionals who can conduct the clinical exam to include physician assistants, psychiatric advanced registered nurse practitioners, licensed clinical social workers, licensed mental health counselors, and licensed marriage and family therapist;
- Increase funding for mobile crisis teams;
- Fund an adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis;
- Expand access to outpatient crisis intervention services and treatment especially for children under 13;
- Create the “Invest in the Mental Health of our Children” grant program to provide matching funds to counties to enhance their systems of care serving these children;
- Encourage school districts to adopt a standardized suicide risk assessment tool that school-based mental health professionals would implement prior to initiation of a Baker Act examination;
- Revise statutes to include school psychologists licensed under ch. 490, F.S., to the list of mental health professionals who are qualified to initiate a Baker Act;

[programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors.pdf](https://www.dcf.state.fl.us/programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors.pdf) (last visited April 19, 2021) (hereinafter cited as “The 2019 Task Force Report”), at p. 3.

⁸² The 2019 Task Force Report, at p. 5.

⁸³ Chapter 2019-134, LO.F.

⁸⁴ *Id.*

- Require Youth Mental Health First Aid and/or Crisis Intervention Team (CIT) training for school resource officers and other law enforcement officers who initiate Baker Act examinations from schools;
- Require the Agency for Health Care Administration (AHCA) to post quarterly Medicaid health plans' Early and Periodic Screening, Diagnostic and Treatment (EPSDT) compliance reports on its website; and
- Supporting Baker Act training and technical assistance by funding a position in the DCF to train and provide technical assistance to providers, clinicians, and other professionals who are responsible for implementing the Baker Act.⁸⁵

Several of these recommendations have been implemented through statutory change or legislative appropriations.

The 2019 report recommended:

- Increasing care coordination for minors with multiple involuntary examinations;
- Utilizing the wraparound care coordination approach for children with complex behavioral health needs and multi-system involvement to ensure one point of accountability and individualized care planning;
- Utilizing existing local review teams;
- Revising administrative rules to gather more information about actions taken after the initiation of exams, require electronic submission of forms, and improve care coordination and discharge planning;
- Funding an additional FTE position at the DCF to provide technical assistance; and
- Ensuring that parents receive information about mobile crisis response teams and other community resources and supports upon child's discharge.⁸⁶

Mobile Response Teams (MRTs)

A mental health crisis can be caused by a variety of factors at any hour of the day.⁸⁷ Family members and caregivers of an individual experiencing a mental health crisis are often ill-equipped to handle these situations and need the advice and support of professionals.⁸⁸ All too frequently, law enforcement or emergency medical technicians (EMTs) are called to respond to mental health crises and they often lack the training and experience to effectively handle the situation.⁸⁹ Mobile crisis response teams (MRTs) can be beneficial in such instances.

MRTs 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.⁹⁰ Early intervention services are critical to reducing involuntary examinations in minors and there are areas across the state where options short of

⁸⁵ The 2017 Task Force Report, p. 1.

⁸⁶ The 2019 Task Force Report, p. 17-18.

⁸⁷ The DCF, *Mobile Response Teams Framework*, (August 29, 2018), p. 4, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Mobile%20Response%20Framework.pdf> (last visited April 19,, 2021)(hereinafter cited as "MRT Framework").

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.* at 2

involuntary examination via the Baker Act are limited or nonexistent.⁹¹ MRTs are available to individuals age 25 and under, regardless of their ability to pay, and must be ready to respond to any mental health emergency.⁹² Telehealth can be used to provide direct services to individuals via video-conferencing systems, mobile phones, and remote monitoring.⁹³ It can also be used to provide assessments and follow-up consultation as well as initial triage to determine if an in-person visit is needed to respond to the crisis.⁹⁴

In ch. 2018-3, L.O.F., the legislature appropriated \$18.3 million in recurring funds to the DCF to establish 40 additional MRTs in an effort to provide services to all 67 counties.⁹⁵ Recent MRT monthly reports showed an 80 percent statewide average of diverting individuals from involuntary examination.⁹⁶

The DCF established a framework to guide procurement of MRTs. This framework suggests that the procurement:

- Be conducted with the collaboration of local Sheriff's Offices and public schools in the procurement planning, development, evaluation, and selection process;
- Be designed to ensure reasonable access to services among all counties in the Managing Entity's service region, taking into consideration the geographic location of existing mobile crisis teams;
- Require services be available 24 hours per day, seven days per week with on-site response time to the location of referred crises within 60 minutes of the request for services;
- Require the Network Service Provider to establish formalized written agreements to establish response protocols with local law enforcement agencies and local school districts or superintendents;
- Require access to a board-certified or board-eligible Psychiatrist or Psychiatric Nurse Practitioner; and
- Provide for an array of crisis response services that are responsive to the individual and the family needs, including screening, standardized assessments, early identification, or linkage to community services as necessary to address the immediate crisis event.⁹⁷

III. Effect of Proposed Changes:

Notification Requirements to Parents

This bill amends s. 381.0056, F.S., related to the school health services program, requiring school health services plans to mandate that a reasonable attempt be made to notify a parent or guardian before a student is removed from school or a school-sponsored activity for an involuntary examination, except when the principal or their designee believes that a delay in removal is necessary to avoid jeopardizing the health and safety of the student.

⁹¹ MRT Framework, p. 4.

⁹² *Id.*

⁹³ MRT Framework, p. 7.

⁹⁴ *Id.*

⁹⁵ The 2019 Task Force Report, p. 4

⁹⁶ *Id.*

⁹⁷ MDT Framework, p. 2-3.

The bill amends ss. 1002.20 and 1002.33, F.S., related to K-12 student and parental rights and charter schools, respectively, requiring the public school or charter school principal or principal's designee to make a reasonable attempt to notify the parent before a student is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination. The bill provides an exception for delaying notification up to 24 hours should the principal or designee believe that a delay is necessary to avoid jeopardizing the health and safety of the student.

For parents of public school students, the bill adds to ss. 1002.20 and 1002.33, F.S., the right to timely notification of school safety and emergency incidents, including certain threats, unlawful acts, and significant emergencies, and the right to access SESIR data as reported by school districts to the DOE.

The bill modifies parental threat notification requirements by eliminating the requirement that school districts establish model emergency management and preparedness procedures. Under the bill, school districts must instead provide timely notice to parents of the following unlawful acts and significant emergency situations on school grounds, school transportation, or school-sponsored activities:

- Weapons possession or use, hostage and active assailant situations.
- Murder, homicide, or manslaughter.
- Sex offenses, including rape, sexual assault, or sexual misconduct with a student by school personnel.
- Natural emergencies, including hurricanes, tornadoes, and severe weather.
- Exposure as a result of a manmade emergency.

The bill also removes the requirement that schools establish model emergency notification policies for reporting hazardous materials or toxic chemical spills.

Civil Citation or Similar Prearrest Diversion Programs

The bill provides that the code of student conduct adopted by a district school board include criteria for recommending to law enforcement a student who commits a criminal offense be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to arrest or expulsion. The bill requires all civil citation or similar prearrest diversion programs used by a school district to comply with the civil citation or similar prearrest diversion programs established in each judicial circuit in the state as provided in s. 985.12, F.S. The bill also requires the student code of conduct to include criteria for assigning a student who commits a petty act of misconduct to a school-based intervention program. The bill prohibits a school-based intervention program from entering a participating student's information into the Juvenile Justice Information System Prevention Web, when the assignment is based on a non-criminal offense.

Reporting Requirements

The bill amends s. 394.463, F.S., related to involuntary examinations, adding the initiation of involuntary examinations of students who are removed from school, school transportation, or a school-sponsored activity to the elements that must be included in data collected by the

Department of Children and Families (DCF), and requiring the DCF to submit a report on findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House by November 1 of each odd-numbered year.

The bill amends s. 1001.212, F.S., related to the Office of Safe Schools (OSS) in the Department of Education (DOE), requiring that both the number of involuntary examinations initiated at each school or school-sponsored activity and the number of students for whom an involuntary examination was initiated be included in the data provided by the OSS to support the evaluation of mental health services.

The bill amends s. 1006.07, F.S., related to district school board duties pertaining to student discipline and school safety, requiring each district school board to adopt a policy requiring that the superintendent report annually to the DOE the number of involuntary examinations initiated at a school, on school transportation, or at a school-sponsored activity.

Safety Incident Notification

The bill also requires school districts to adopt policies, consistent with the OSS's model policies and best practices, for parental notification for certain threats as identified by a school's threat assessment team. When permitted by law to disseminate such information, the notification must include resolution and actions taken.

The bill requires the DOE to annually publish the most recently available SESIR data, along with other school accountability and performance data, in a uniform, statewide format that is easy to read and understand.

Emergency Drills

The bill authorizes school board policies to provide accommodations for drills conducted by Exceptional Student Education centers.

The bill replaces the term "active shooter" with "active assailant" to expand emergency notification and staff and student training for situations in which the perpetrator may use a weapon other than a firearm.

Training Requirements

The bill amends s. 1006.12, F.S., related to safe school officers at each public school, requiring that school safety officers complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention to improve skills in responding to students with emotional behavioral disability or mental illness, including de-escalation techniques.

Mental Health Professional Notification

The bill requires school or law enforcement personnel to make a reasonable attempt to contact a mental health professional statutorily authorized to initiate an involuntary examination, unless

the child poses an imminent danger to themselves or others, before initiating an involuntary examinations

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There will be an indeterminate impact to providers of crisis intervention training for school safety officers and school resource officers.

C. Government Sector Impact:

The DCF anticipates an indeterminate, negative fiscal impact generated by additional calls from schools to mobile response teams (MRTs) or mental health professionals in instances where schools do not already contact a MRT or mental health professional prior to initiating a Baker Act.⁹⁸

⁹⁸ The Florida Department of Children and Families, *Agency Analysis for SB 590*, p. 6, January 19, 2021 (on file with the Senate Children, Families, and Elder Affairs Committee).

In the agency’s bill analysis for legislation filed in the 2020 session (CS/SB 1062)⁹⁹, the DOE estimated that the agency may incur costs relating to data collection and analysis of involuntary examinations, including costs related to training school and district staff on data collection required by the bill. The DOE determined that the impact of these requirements is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0056, 394.463, 1001.212, 1002.20, 1002.33, 1006.07, 1006.12, and 1011.62.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations on April 19, 2021:

The committee substitute:

- Removes the required memorandum of understanding with a local mobile response team and all provisions related to the memorandum.
- Clarifies that the school or law enforcement personnel must make a reasonable attempt to contact a mental health professional, who may initiate an involuntary examination, unless the child poses an imminent danger to themselves or others before initiating an involuntary examination.
- Provides that the school or law enforcement personnel’s contact with a mental health professional may be in person or using telehealth.
- Specifies the mental health professional may be available to the school district either by contract or by interagency agreement with one or more local community behavioral health providers, MRT, or be a direct or contract school district employee.
- Replaces the term “immediate notification” with “reasonable attempt of notification”.
- Modifies ss. 1002.20 and 1002.33, F.S., to specify that parents of public school or charter school students have the right to:
 - Timely notification of threats, unlawful acts, and significant emergencies; and
 - Access school safety and discipline incidents as reported in the school environmental safety incident report.

⁹⁹ The Florida Department of Education, *Agency Analysis of CS/SB 1062 (2020)*, p. 8, July 1, 2020 (on file with the Senate Appropriations Subcommittee on Health and Human Services).

- Modifies s. 1006.07, F.S., by adding requirements to student codes of conduct to include:
 - Criteria for recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to expulsion or arrest.
 - Criteria for assigning a student who commits a petty act of misconduct, to a school-based intervention program. If a student's assignment is based on a noncriminal offense, the student's participation in a school-based intervention program may not be entered into the Department of Juvenile Justice Information System Prevention Web.
- Replaces the term "active shooter" with "active assailant".
- Allows district school board policies to provide accommodations for drills conducted by exceptional education centers.
- Requires district school boards to establish emergency response and emergency preparedness policies and procedures that include, but are not limited to, identifying the individuals responsible for contacting the primary emergency response agency and the emergency response agency that is responsible for notifying the school district for each type of emergency.
- Requires timely notice to parents of the following unlawful acts and significant emergency situations on school grounds, school transportation, or school-sponsored activities:
 - Weapons possession or use, hostage and active assailant situations.
 - Murder, homicide, or manslaughter.
 - Sex offenses, including rape, sexual assault, or sexual misconduct with a student by school personnel.
 - Natural emergencies, including hurricanes, tornadoes, and severe weather.
 - Exposure as a result of a manmade emergency.

B. Amendments:

None.