

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1195 Advanced Registered Nurse Practitioners

**SPONSOR(S):** Campbell

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1750

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	13 Y, 0 N	Batchelor	Schoolfield
2) Judiciary Committee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

HB 1195 amends s. 394.463, F.S, permitting Advanced Registered Nurse Practitioners (ARNP) to execute a certificate for involuntary examination of a person for mental illness at a receiving facility designated by the Department of Children and Families. Current law provides that physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists and clinical social workers may execute certificates for involuntary examination.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### *Involuntary Examination (Baker Act)*

In 1971, the legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address mental health needs in the state. Chapter 394, Part I, Florida Statutes provides authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of individuals for treatment. The Department of Children and Families (DCF) administers this law through receiving facilities which provide for the examination of persons with evidence of a mental illness. Receiving facilities are designated by DCF and may be public or private facilities which provide for the involuntary examination and short term treatment of persons who meet criteria under this act.<sup>1</sup> Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by DCF are state hospitals (e.g. Florida State Hospital) which provide extended treatment and hospitalization, beyond what is provided in a receiving facility.<sup>2</sup>

Current law provides that an involuntary examination may be initiated for a person if there is reason to believe the person has a mental illness and because of the illness the person has refused a voluntary examination after explanation of the purpose of the exam or the person is unable to determine for themselves that an examination is needed and is likely to suffer from self neglect, substantial harm to themselves or be a danger to themselves or others.<sup>3</sup> An involuntary examination may be initiated by any of the following:<sup>4</sup>

- A court may enter an *ex parte* order stating a person meets the criteria for involuntary examination. This order is based on the sworn testimony by the petitioner, either written or oral.
- A law enforcement officer may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.
- Physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists or clinical social workers may issue a certificate stating that a person they examined within the preceding 48 hours meets the criteria for involuntary examination.

Current law provides that physicians, clinical psychologists, and psychiatric nurses who issue certificates for involuntary examinations must have additional experience and/or additional education requirements related to mental disorders.<sup>5</sup> Clinical Social Workers are required by law to have experience in providing psychotherapy and counseling.<sup>6</sup> The Marriage and Family Therapist practice includes methods of a psychological nature use to evaluate, assess, diagnose, treat and prevent emotional and mental disorders or dysfunctions<sup>7</sup>.

During the 2009, there were 136,120 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary exams (48.89 percent) followed by mental health professionals (48.74 percent) and then *ex parte* orders by judges (2.37 percent).<sup>8</sup>

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<sup>1</sup> Section 394.455(26), F.S.

<sup>2</sup> Section 394.455(32), F.S.

<sup>3</sup> Section 394.463(1), F.S.

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

<sup>5</sup> Sections 394.455(2)(21)(23), F.S.

<sup>6</sup> Section 491.003(3), F.S.

<sup>7</sup> Section 491.003(8), F.S.

<sup>8</sup> Report of Baker Act Data, Summary of Data from 2009. USF, de la Parte Florida Mental Health Institute. <http://bakeract.fmhi.usf.edu/>. (last visited January 12, 2012).

## *Advanced Registered Nurse Practitioner (ARNP)*

Part I of Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (BON). Licensure requirements to practice professional nursing include completion of education requirements<sup>9</sup>, demonstration of passage of a department-approved examination, a clean criminal background screening, and payment of applicable fees.<sup>10</sup> Renewal is biennial and contingent upon completion of certain continuing medical education requirements.

A nurse who holds a license to practice professional nursing may be certified as an ARNP under s. 464.012, F.S., if the nurse meets one or more of the following requirements:

- Completion of a post basic education program of at least one academic year that prepares nurses for advanced or specialized practice;
- Certification by a specialty board, such as a registered nurse anesthetist or nurse midwife; or
- Possession of a master's degree in a nursing clinical specialty area.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.<sup>11</sup> All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or a dentist.<sup>12</sup> ARNPs may carry out treatments as specified in statute, including:<sup>13</sup>

- Monitoring and altering drug therapies;
- Initiating appropriate therapies for certain conditions;
- Performing additional functions as may be determined by rule in accordance with s. 464.003(2) F.S.;<sup>14</sup>
- Ordering diagnostic tests and physical and occupational therapy.

In addition to the above permitted acts, ARNPs may also perform other acts as permitted in statute within his/her specialty.<sup>15</sup> In addition if it is within the ARNPs established protocol, the ARNP may establish behavioral problems and diagnosis and make treatment recommendations.<sup>16</sup>

There are 13,519 active, licensed ARNPs in Florida.<sup>17</sup>

### **Effect of Proposed Changes:**

The bill amends s. 394.463, F.S. permitting an ARNP to execute a certificate stating that a person, who the ARNP has examined within the preceding 48 hours, appears to meet criteria for involuntary examination for mental illness.

Current law provides that physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists and clinical social workers may execute certificates for

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<sup>9</sup> 64B9-4.003, F.A.C provides that an Advanced Nursing Program shall be at least one year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

<sup>10</sup> Section 464.009, F.S., provides an alternative to licensure by examination for nurses through licensure by endorsement.

<sup>11</sup> Section 464.012(2), F.S.

<sup>12</sup> Section 464.012(3), F.S.

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

<sup>14</sup> Section 464.003(2), F.S. defines "Advanced or Specialized Nursing Practice" to include additional activities that an ARNP may perform as approved by the Board of Nursing.

<sup>15</sup> Section 464.012(4), F.S.

<sup>16</sup> Section 464.012(4)(c)5, F.S.

<sup>17</sup> Florida Department of Health, Medical Quality Assurance Annual Report 2010-2011.

involuntary examination. These professions are required by statute to have experience and/or education in mental health treatment. The ARNP program requires students to have education in behavioral sciences.<sup>18</sup>

B. SECTION DIRECTORY:

**Section 1:** Amends s. 394.463, F.S., relating to involuntary examination.

**Section 2:** Provides an effective date of July 1, 2012.

**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:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

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<sup>18</sup> 64B9-4.003, F.A.C provides that an Advanced Nursing Program shall be at least one year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**