SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2030

SPONSOR: Health, Aging and Long-Term Care Committee, Children and Families Committee, and Senator Peaden

SUBJECT: Mental Health Treatment

DATE: March 12, 2002 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barnes	Whiddon	CF	Favorable/CS
2.	Liem	Wilson	HC	Favorable/CS
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 2030 creates a workgroup to study development and implementation of involuntary outpatient treatment for persons with mental illness. The bill specifies workgroup membership, requires the Florida Sheriff's Association to convene and chair the workgroup, and requires the workgroup to be convened by August 1, 2002. Expenses associated with meetings of the workgroup and workgroup products are the responsibility of each member's agency or organization. The bill requires a report that includes legislation to allow court-ordered treatment on an outpatient basis and criteria for early intervention for persons with severe mental illness who are recidivists in the Baker Act system. The report is to include data on the impact of the proposed statutory changes on the courts, law enforcement, jails, and the mental health treatment system. The report is to be submitted by December 31, 2002, to the Governor, the President of the Senate and the Speaker of the House of Representatives.

The bill creates an undesignated section of law.

II. Present Situation:

Part I of ch. 394, F.S., is known as the Florida Mental Health Act or the "Baker Act." The Baker Act contains all of the statutory provisions for the involuntary examination and the involuntary placement of persons who are mentally ill and require mental health treatment.

Section 394.463, F.S., specifies the criteria for an involuntary mental health examination. A person may be taken to a receiving facility for involuntary examination if there is reason to believe that he or she is mentally ill and because of the mental illness 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 if the examination is necessary; and
- without care or treatment, the person is likely to suffer from neglect or refuses to care for himself or herself which poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that 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, as evidenced by recent behavior that, without care or treatment, the person will cause serious bodily harm to himself or herself or others in the near future.

Section 394.463(2)(f), F.S., states that a patient must be examined by a physician or clinical psychologist at a receiving facility without unnecessary delay and may not be held in a receiving facility for involuntary examination longer than 72 hours. At the end of 72 hours, the patient must be released or a petition filed with the court for involuntary placement in a mental health receiving or treatment facility.

Section 394.467(1), F.S., includes the Baker Act provisions for the involuntary placement of a patient in a mental health treatment or receiving facility. A person may be involuntarily placed for treatment upon a finding of the court by clear and convincing evidence that the person is mentally ill and because of the mental illness the person:

- has refused voluntary placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of placement for treatment; or
- is unable to determine for himself or herself if placement is necessary; and
- is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself which poses a real and present threat of substantial harm to his or her well-being; or
- there is substantial likelihood, as evidenced by recent behavior, that in the near future he or she will inflict serious bodily harm on himself or herself or another person, causing, attempting, or threatening harm; and
- all available less restrictive treatment alternatives which would offer an opportunity for improvement of his or her condition have been judged to be inappropriate.

According to Baker Act data collected by the Agency for Health Care Administration and analyzed by the Louis de la Parte Florida Mental Health Institute, 96,000 persons (78,720 were 18 years of age or older) received an involuntary examination pursuant to s. 394.463, F.S., during 2001.

Mental health advocates and professionals believe that many hospitalizations could be avoided if a person with serious mental illness received early interventions and appropriate treatment services prior to mental decompensation. In many cases when persons with mental illness do not receive the proper services, other serious problems exist such as becoming homeless, incarcerated, suicidal, victimized or prone to violent episodes.

Judges and other professionals in Florida=s criminal justice system and mental health system find that many persons with mental illness who commit misdemeanors cycle in and out of the county jails because they do not have access to the appropriate mental health treatment and support services. These experts believe that persons with mental illness continue to commit misdemeanors for the following reasons: 1) many persons are not diagnosed and treated in jail immediately after arrest, 2) many persons who are stabilized in jail or in a mental health facility decompensate quickly when returning to their home because the appropriate psychiatric medications or other treatment modalities that help maintain mental stability are discontinued, and 3) there is a lack of managing and monitoring of the client in the community to assure that service needs are being met. Mental health experts in Florida=s community mental health system believe that one of the more subtle outcomes of the deinstitutionalization of persons with mental illness from the state mental health hospitals has been their reinstitutionalization in the criminal justice system.

Many states have adopted new treatment standards that are not based solely on dangerousness to self or others but are based on a patient's well established medical and treatment history and other factors such as self-neglect, violence, or arrest for criminal behavior. According to the publication, *The Effectiveness of Involuntary Outpatient Treatment: Empirical Evidence and the Experience of Eight States* by John Petrila, M. Susan Ridgely, and Randy Borum, at least 38 states and the District of Columbia have laws with specific provisions for involuntary outpatient treatment. An evidence-based review was conducted by the researchers of the empirical literature on involuntary outpatient treatment. They found that only two randomized clinical trials of involuntary outpatient treatment have been conducted, one in New York City and one by Duke University investigators in North Carolina, and there were conflicting conclusions.

The New York City study found no statistically significant differences in rates of rehospitalization, arrests, quality of life, psychiatric symptoms, homelessness or other outcomes between the involuntary outpatient treatment group and those who receive intensive services but without a commitment order. The researchers point out that the New York study included a small sample size, non-equivalent comparison groups, and a lack of enforcement of court orders that may have affected the findings, making it difficult to draw definitive conclusions.

The Duke study suggests that a sustained outpatient commitment order (180+ days), when combined with intensive mental health services, may increase treatment adherence and reduce the risk of negative outcomes such as relapse, violent behavior, victimization, and arrest. According to the Duke investigators, two factors associated with reduced recidivism and improved outcomes among people with severe mental illness appear to be intensive mental health treatment and enhanced monitoring for a sustained period of time. In the Duke study, outcomes were only improved for those under court order who received intensive mental health services. The researchers could not conclude if court orders without intensive treatment make a difference in client outcomes.

III. Effect of Proposed Changes:

The bill creates a workgroup to study development and implementation of involuntary outpatient treatment for persons with mental illness. Membership in the workgroup includes, but is not limited to, a representative from each of the following:

- The Florida Sheriff's Association;
- The Florida Police Chief's Association;
- The Florida Council for Behavioral Health Care;
- The Florida Public Defender Association;
- The Florida Prosecuting Attorney Association;
- The Florida Association of Counties;
- The Florida Psychiatric Society;
- The Department of Children and Family Services;
- The Agency for Health Care Administration;
- The Florida Alliance for the Mentally Ill; and
- The Florida Mental Health Association.

Two judges with experience in the criminal or probate division are to be appointed by the Chief Justice of the Supreme Court to serve on the workgroup.

The bill requires the Florida Sheriff's Association to convene and chair the workgroup, and the workgroup is to be convened by August 1, 2002. Expenses associated with meetings of the workgroup and workgroup products are the responsibility of each member's agency or organization. The bill requires a report that includes legislation to allow court-ordered treatment on an outpatient basis and criteria for early intervention for persons with severe mental illness who are recidivists in the Baker Act system. The report is to include data on the impact of the proposed statutory changes on the courts, law enforcement, jails, and the mental health treatment system. The report is to be submitted by December 31, 2002, to the Governor, the President of the Senate and the Speaker of the House of Representatives.

The effective date of the bill is upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There will be costs to some private associations for activities of the workgroup.

C. Government Sector Impact:

There will be costs to state agencies for activities associated with the workgroup.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.