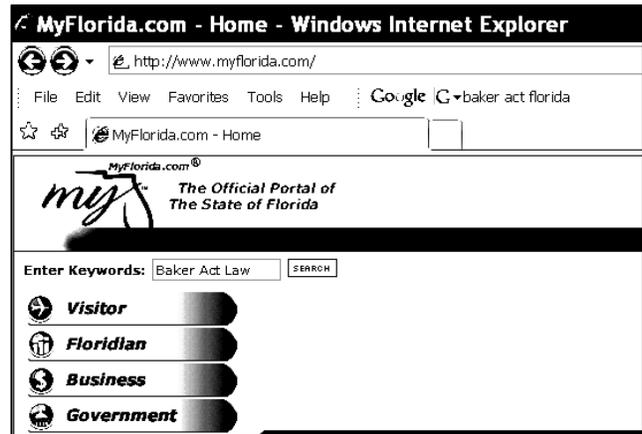


Baker Act Essentials

Direct Quotes from
www.myflorida.com
 the Official Government Website of
 the State of Florida



Does a law enforcement officer have to personally see the behavior to justify taking a person into custody under the Baker Act?

NO. Taking a person into custody under the Baker Act is a civil procedure, not requiring the same probable cause required under criminal law. An authorized person may initiate the involuntary examination by having “reason to believe” “a person appears to meet the criteria.” A law enforcement officer may consider the statements of other credible persons who have seen the behavior. The Baker Act requires the officer to detail the “circumstances” under which the person was taken into custody, which may include but does not require description of the officer’s personal observations. An officer may wish to have witnesses to behavior write and sign a statement to be attached to the incident report in case the witness’s statement changes in the future. This will, uphold the officer’s “good faith” in initiating the involuntary examination.

[Examples of a responsible report include papers documenting a psychiatrist's diagnosis of a psychotic condition, or descriptions from family members indicating that the loved is potentially harmful to himself or others because they have refused or stopped taking otherwise effective anti-psychotic medication. Note: these particular examples are not quoted from myflorida.com]

Can a Baker Act receiving facility refuse to accept the person a law enforcement officer brings to them?

NO. The Baker Act states that the nearest receiving facility must accept persons brought by law enforcement officers for involuntary examination. If the receiving facility believes the patient should be “medically cleared” the facility can arrange appropriate medical transport for this purpose. If the receiving facility is at capacity, it should accept the patient and arrange an appropriate transfer.

<input type="checkbox"/> Does a law enforcement officer have to wait at a hospital for the patient to be medically screened, treated, or have their insurance verified?	<p>NO. The officer's only duties are to present the patient and the required completed paperwork. However, if the patient is acting in a dangerous manner, beyond the ability of the hospital staff to manage, the officer should stay to assist for a very temporary period until hospital clinical or security staff can arrive.</p>
<input type="checkbox"/> Does a law enforcement officer have to return to a hospital to transfer the patient to another facility?	<p>NO. Once the patient is taken to the hospital, the state's Baker Act and the federal EMTALA law require the hospital to arrange for appropriate transfer, when necessary.</p>
<input type="checkbox"/> Can a law enforcement officer take a person who meets the criteria for involuntary examination to jail instead of a Baker Act receiving facility if they have committed a misdemeanor?	<p>NO. The Baker Act states that any law enforcement officer who has custody of a person based on either non-criminal or minor criminal behavior <u>that meets the statutory guidelines for involuntary examination, shall transport the person</u> to the nearest receiving facility for examination. [s. 394.462(1)(f), F.S.]</p>
<input type="checkbox"/> Can a law enforcement officer use handcuffs and other restraints when transporting persons with mental illness to a Baker Act receiving facility?	<p>The Baker Act states that the individual dignity of the patient shall be respected at all times and upon all occasions, including any occasion when the patient is taken into custody, held or transported. Procedures, facilities, vehicles, and restraining devices utilized for criminals or those accused of crime <u>shall not be used in connection with persons who have a mental illness, except for the protection of the patient or others.</u> Where the dangerous circumstances are clearly documented, such restraints may be used in accord with the law enforcement agency's written policies s. 394.459(1), F.S.</p>

<p><input type="checkbox"/> Why do law enforcement officers have the responsibility to transport mentally ill people? Isn't this a health function?</p>	<p>The criteria for involuntary examination requires that the person be refusing examination or be unable to determine that the examination is necessary. For anyone other than those authorized by law to take a person against his or her will or without informed consent to a receiving facility could be a criminal offense. In addition, law enforcement is specifically trained in the transportation of persons who are either violent, resisting transportation, or are otherwise unwilling to comply with directions. Others without that training may either injure the person or be injured by the person.</p>
<p><input type="checkbox"/> What are the criteria for initiating an involuntary examination under the Baker Act?</p>	<p>A person may be taken to a receiving facility for involuntary examination [s. 394.463] if there is <u>reason to believe</u> that he or she is <u>mentally ill</u> and because of his or her mental illness:</p> <p>(a) The person has <u>refused a voluntary examination or is unable to determine</u> that an voluntary examination is necessary after conscientious explanation and disclosure of the purpose of the examination; AND</p> <p>(b) 1. <u>Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; and 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</u></p> <p>(b) 2. There is a substantial likelihood that without care or treatment the person will cause serious bodily <u>harm to self or others</u> in the near future, as evidenced by recent behavior.</p>