



Children, Families & Seniors Subcommittee

**Tuesday, October 20, 2015
12:00 PM – 3:00 PM
Reed Hall (102 HOB)**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Children, Families & Seniors Subcommittee

Start Date and Time: Tuesday, October 20, 2015 12:00 pm
End Date and Time: Tuesday, October 20, 2015 03:00 pm
Location: Reed Hall (102 HOB)
Duration: 3.00 hrs

Consideration of the following bill(s):

HB 103 Transactions in Fresh Produce Markets by Fullwood

Presentation by the Department of Children and Families on the Baker and Marchman Acts

Panel Discussion on the Baker and Marchman Acts:

Hon. Bob Gualtieri, Sheriff, Pinellas County
Anne Lotierzo, LMHC, Supervisor, New Horizons of the Treasure Coast
Richard Brown, CEO, Agency for Community Treatment Services
Hon. Kathy Smith, Public Defender, 20th Judicial Circuit
Eddie Evans, Assistant State Attorney, 2nd Judicial Circuit
Brenda Mader, Attorney, Office of Criminal Conflict and Civil Regional Counsel, 1st DCA Region

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Monday, October 19, 2015.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, October 19, 2015.



NOTICE FINALIZED on 10/13/2015 2:54PM by Ellerkamp.Donna

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 103 Transactions in Fresh Produce Markets

SPONSOR(S): Fullwood

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Tuszynski 	Brazzell 
2) Health & Human Services Committee			

SUMMARY ANALYSIS

The Supplemental Nutrition Assistance Program (SNAP) is a federal program that offers nutrition assistance to low-income individuals and families. Individuals and families who meet eligibility standards receive an Electronic Benefits Transfer (EBT) card. Money is deposited on the EBT card for families and individuals to purchase certain types of food each month. To accept SNAP benefits from an EBT card, businesses selling food must have an EBT system and be licensed by the United States Department of Agriculture (USDA). The USDA licenses farmers' markets and allows farmers' markets to operate EBT systems, but not all farmers' markets accept SNAP benefits.

The bill allows the owner or operator of a market selling fresh produce, such as a farmer's market, that does not have an Electronic Benefits Transfer (EBT) system to allow certain specified groups to implement and operate an EBT system in the market on behalf of the sellers. The bill clarifies that this applies when the market owner or operator is not an authorized Supplemental Nutrition Assistance Program (SNAP) retailer.

The bill has no fiscal impact.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

History of the Food Stamp Program

The food stamp program began in 1939, providing a discount for surplus food to people on relief. From 1939-1943, those who qualified were able to purchase stamps redeemable for the purchase of food, and were given additional stamps redeemable only towards purchasing surplus food.¹ In 1961 the Pilot Food Stamp Program was created by President Kennedy. The pilot program used the original food stamp program, but did not limit the use of additional stamps toward surplus food; those stamps could be used for perishables as well.²

The Food Stamp Act of 1964 made the program permanent and expanded the use of food stamps to "all items eligible for consumption, with the exception of alcohol and imported foods."³ Since then a number of changes and reforms to the program have taken place including changing the name of the program to the Supplemental Nutrition Assistance Program (SNAP), changing eligibility determinations and introducing the use of an Electronic Benefits Transaction card (EBT).⁴

Supplemental Nutrition Assistance Program-SNAP (Federal Program)

Today, SNAP is a federal program that is administered by the individual states. SNAP aims to "provide children and low-income people access to food, a healthful diet and nutrition education in a way that supports American agriculture and inspires public confidence."⁵ The Food and Nutrition Act of 2008 defines "eligible food" as "any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods and hot food products prepared for immediate consumption."⁶ Eligible food also includes seeds and plants to grow foods for personal consumption, as well as some additional exceptions to allow for hot food products ready for consumption in certain circumstances.⁷

Retailers Accepting Food Stamps

Retailers accepting SNAP benefits as a form of payment must be licensed by the United States Department of Agriculture (USDA).⁸ The Food and Nutrition Service (FNS) is responsible for licensing and monitoring of retail food stores participating in SNAP.⁹ A separate SNAP license is required for each store location and a SNAP permit is no longer valid if a store is closed, moved, or sold.¹⁰ Licensed stores are fully reviewed for eligibility at least once every five years.¹¹

¹ A Short History of SNAP, USDA Food and Nutrition Service, *available at*: <http://www.fns.usda.gov/snap/rules/Legislation/about.htm> (last visited October 12, 2015).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ About FNS, USDA Food and Nutrition Service, *available at*: <http://www.fns.usda.gov/about-fns> (last visited October 12, 2015).

⁶ 7 C.F.R. s. 271.2.

⁷ P.L. 110-246, provides that certain individuals because of age, disability or living arrangement may purchase hot foods with their SNAP EBT card.

⁸ Supplemental Nutrition Assistance Program-Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/additional-information> (last visited October 14, 2015).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Supplemental Nutrition Assistance Program Training Guide for Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/supplemental-nutrition-assistance-program-training-guide-retailers> (last visited October 14, 2015).

To apply as a SNAP provider, retailers must meet basic eligibility requirements. For basic eligibility, the store must sell food for home preparation and consumption and must also meet ONE of the following conditions:

- Offer at least three varieties of qualifying foods in each of the following four staple food groups on a continuous basis¹²:
 - Meat, poultry, or fish;
 - Bread or cereal;
 - Vegetables or fruits; and
 - Dairy products.
- More than 50% of the total dollar amount of all retail sales sold in the store must be from the sale of eligible staple foods.¹³

Qualified retailers can then apply to be a SNAP provider, either online or with the use of a paper application.¹⁴

Once a retailer is licensed, the store will receive a seven digit FNS number, which is used to identify both the store and the owner.¹⁵

Florida Food Assistance Program

The Florida Department of Children and Families (DCF) administers and operates the state's food assistance program (SNAP), including the eligibility process for recipients.¹⁶ The federal government pays 100 percent of the SNAP benefits, and the federal and state governments share the administrative costs.¹⁷ The USDA determines the amount of food assistance benefits an individual or family receives, based on the individual's or family's income and resources.¹⁸ Food assistance benefits are a supplement to a family's food budget. Households may need to spend some of their own cash, along with their food assistance benefits, to buy enough food for a month.¹⁹ State law provides that DCF shall establish procedures in compliance with federal law for notifying the appropriate federal and state agencies of any violation of law regarding the food assistance program and DCF must also notify the Department of Financial Services.²⁰

Use of the Electronic Benefits Card

Food assistance monies are placed on an Electronic Benefits Transaction (EBT) card. Once an individual applies for cash assistance or food assistance with DCF, he or she will receive an EBT card in the mail.²¹

There are three ways to accept EBT: a point of sale (POS) system; a machine that processes EBT, credit, and debit transactions; and a manual paper voucher process.

¹² The store must offer perishable goods in a least two of the categories.

¹³ Supplemental Nutrition Assistance Program, USDA Food and Nutrition Service, *accessible at:*

<http://www.fns.usda.gov/snap/retailers/store-eligibility.htm> (last visited October 12, 2015).

¹⁴ SNAP Retail Merchants. "Operating a CSA and SNAP Participation." *accessible at:* <http://www.fns.usda.gov/ebt/what-farmers-market> (last visited October 12, 2015).

¹⁵ Supplemental Nutrition Assistance Program Training Guide for Retailers, USDA Food and Nutrition Service, *accessible at:*

<http://www.fns.usda.gov/supplemental-nutrition-assistance-program-training-guide-retailers> (last visited October 14, 2015).

¹⁶ S. 414.31, F.S.

¹⁷ SNAP/Food Stamps, Food Research and Action Center, *accessible at:* <http://frac.org/federal-foodnutrition-programs/snapfood-stamps/> (last visited October 12, 2015).

¹⁸ DCF Food Assistance Program Fact Sheet, *accessible at:* <http://www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf> (last visited October 12, 2015).

¹⁹ *Id.*

²⁰ S. 414.33, F.S.

²¹ EBT Card Issuance, Department of Children and Families Access Program, *accessible at:* <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/ebt-card-issuance> (last visited October 12, 2015).

- The POS system is electronic and free for retailers selling over \$100 in SNAP benefits monthly. Retailers using POS systems usually receive payment within two banking days.
- To use a machine that processes credit, debit, and EBT transactions, the retailer must arrange to have commercial equipment provided by a third-party processor. Commercial equipment is provided at a cost that the retailer negotiates with the third-party processor. Commercial equipment is often integrated, meaning that the POS terminal, cash register, and scanning device are all connected together in order to speed transactions and minimize errors.
- The manual paper voucher process is a free way for retailers to accept EBT. The retailer must fill out a voucher and have the customer sign the form. Prior to completing the transaction, the retailer must call customer service to confirm that the customer has enough money in his or her SNAP account to purchase the items. At that point the transaction is complete. To collect money from the transaction, the retailer must electronically clear the voucher within 15 days or send the voucher to the state by the set expiration date.²²

Farmers' Markets

Farmers' markets are sometimes eligible to collect SNAP benefits as a form of payment for the sale of food. The USDA defines a farmers' market as "a multi-stall market at which farmer-producers sell agricultural products directly to the general public at a central or fixed location, particularly fresh fruit and vegetables (but also meat products, dairy products, and/or grains)."²³ Like traditional retailers, the USDA requires farmers' markets to obtain a license in order to accept SNAP benefits as a form of payment.²⁴

Individual farmers may apply for and receive a license to accept SNAP benefits, but when individual farmers do not have a license to accept SNAP benefits, the farmers' market, rather than the individual farmers, must hold an FNS license in order to accept SNAP.²⁵ In these cases, the farmers' market can use a scrip system for payment and use a centralized POS device to process transactions.²⁶

There are two basic scrip systems: a paper scrip (or token system) and a receipt system.²⁷

- The paper scrip system requires the farmers' market to design and purchase tokens or print paper scrip.²⁸ With the paper scrip system, customers swipe their EBT card at a centrally located POS device and the market staff gives the customers paper scrip or tokens in exchange for the amount debited from the EBT card.²⁹ Customers can then use the paper scrip or tokens to purchase eligible food at booths throughout the market.³⁰
- With the receipt system, customers shop for eligible food, and individual vendors hold this food aside for the customer.³¹ The vendor makes a list of the food and the customer takes the list to a centralized POS to pay with their EBT card.³² After paying, the customer receives a receipt, which they take to the vendor in exchange for the food that has been held aside.³³

²² SNAP Training guide for Retailers, USDA Food and Nutrition Service, *accessible at*: <http://www.fns.usda.gov/snap/retailers/store-training.htm> (last accessed October 12, 2015)

²³ What is a Farmers' Market, Supplemental Nutrition Assistance Program, USDA, *accessible at*: <http://www.fns.usda.gov/ebt/what-farmers-market> (last accessed October 12, 2015)

²⁴ Market Responsibilities, Supplemental Nutrition Assistance Program, USDA, *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-market_responsibilities.htm (last accessed October 14, 2015).

²⁵ Scrip System, Supplemental Nutrition Assistance Program, USDA *accessible at* <http://www.fns.usda.gov/ebt/scrip-system-paper-scrip-token-or-receipts> (last accessed October 14, 2015).

²⁶ *Id.*

²⁷ *Id.*

²⁸ Market Responsibilities, Supplemental Nutrition Assistance Program, USDA, *accessible at*: http://www.fns.usda.gov/snap/ebt/fm-scrip-market_responsibilities.htm (last accessed October 14, 2015).

²⁹ Scrip System, Supplemental Nutrition Assistance Program, USDA, *accessible at* <http://www.fns.usda.gov/ebt/scrip-system-paper-scrip-token-or-receipts> (last accessed October 14, 2015).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

The farmers' market also must train farmers in scrip redemption rules and procedures, since the market's ability to accept SNAP benefits could be jeopardized if the farmer commits a SNAP violation while operating under the market's license.³⁴ In addition, the farmers' market must develop an accounting system and method for reimbursing vendors.³⁵

Farmers' Markets That Accept EBT

Only a small percentage of farmers' markets nationwide participate in SNAP EBT. In order to encourage greater EBT participation, the USDA provides grants to expand the use of SNAP benefits and EBT within farmers' markets.³⁶

The Department of Children and Families announced a USDA grant on July 27, 2012, that would provide free wireless EBT equipment allowing up to 100 farmers' markets within the state to handle SNAP redemption.³⁷ As of October 10, 2015, 82 of Florida's farmers' markets are participating in EBT.³⁸

Effect of Proposed Changes

The bill authorizes the owner or operator of a fresh produce market which does not have an EBT system to allow certain groups to implement and operate an EBT system in the market on behalf of the produce sellers. The bill lists groups authorized to set up the EBT operations and specifies that these groups must also be authorized by the Food and Nutrition Service. The groups specified in the bill includes a food nutrition service group, association of produce sellers active in the market or a food nutrition service third party organization.

If an outside group establishes the EBT system, the bill requires that the market owner or operator must reasonably accommodate the group in the implementation and operation of the EBT system for accepting SNAP benefits.

This bill states that the EBT system requirement does not apply to a market selling fresh produce whose owner or operator has an EBT system for accepting SNAP benefits in the market. The requirement also does not prohibit an authorized food and nutrition service produce seller in a market selling fresh produce from operating his or her own EBT system as part of his or her customer transaction options. The bill also does not require a market owner or operator to create, operate, or maintain an EBT system on behalf of his produces sellers.

B. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law, relating to the Fresh Produce Markets.

Section 2: Provides for an effective date.

³⁴ Market Responsibilities, Supplemental Nutrition Assistance Program, USDA, *accessible at:* <http://www.fns.usda.gov/ebt/market-responsibilities> (last accessed October 14, 2015).

³⁵ *Id.*

³⁶ Learn About SNAP Benefits at Farmers Markets, EBT, USDA, *accessible at:* <http://www.fns.usda.gov/ebt/learn-about-snap-benefits-farmers-markets> (last accessed October 15, 2015).

³⁷ More Farmers' Markets in Florida Will Soon Accept Food Assistance Cards, Florida Department of Children and Families, *accessible at:* <http://www.myflfamilies.com/press-release/more-farmers-markets-florida-will-soon-accept-food-assistance-cards> (last accessed October 15, 2015).

³⁸ SNAP Authorized Farmers' Markets, USDA *accessible at* Department of Agriculture, National Farmers Market Directory, *accessible at:* <http://www.fns.usda.gov/ebt/learn-about-snap-benefits-farmers-markets> (last accessed October 15, 2015).

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. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to transactions in fresh produce
3 markets; providing definitions; authorizing certain
4 owners and operators of farmers' markets, community
5 farmers' markets, flea markets, and other open-air
6 markets selling fresh produce to allow authorized Food
7 and Nutrition Service groups, associations, and third-
8 party organizations to operate electronic benefits
9 transfer systems in such markets; providing
10 applicability; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. (1) As used in this section, the term:

15 (a) "Market" means a farmers' market, community farmers'
16 market, flea market, or other open-air market.

17 (b) "SNAP" means the federal Supplemental Nutrition
18 Assistance Program established under 7 U.S.C. ss. 2011 et seq.

19 (2) (a) The owner or operator of a market selling fresh
20 produce who is not an authorized SNAP retailer may allow an
21 authorized Food and Nutrition Service group or association of
22 produce sellers that is actively participating in produce sales
23 in the market, or an authorized Food and Nutrition Service
24 third-party organization, to implement and operate an electronic
25 benefits transfer system for purposes of accepting SNAP benefits
26 in the market on behalf of the produce sellers to the extent and

27 | manner allowed by federal law and regulation.

28 | (b) The authorized Food and Nutrition Service group,
 29 | association, or third-party organization responsible for
 30 | implementation and operation of the electronic benefits transfer
 31 | system may not be another market that competes with the market
 32 | being served.

33 | (c) The market owner or operator shall reasonably
 34 | accommodate the authorized Food and Nutrition Service group,
 35 | association, or third-party organization in the implementation
 36 | and operation of an electronic benefits transfer system for
 37 | purposes of accepting SNAP benefits.

38 | (3) This section does not:

39 | (a) Apply to a market selling fresh produce whose owner or
 40 | operator has an electronic benefits transfer system for
 41 | accepting SNAP benefits in the market.

42 | (b) Prohibit an authorized Food and Nutrition Service
 43 | produce seller in a market selling fresh produce from operating
 44 | his or her own electronic benefits transfer system as part of
 45 | his or her customer transaction options.

46 | (c) Require a market owner or operator to create, operate,
 47 | or maintain an electronic benefits transfer system on behalf of
 48 | its produce sellers.

49 | Section 2. This act shall take effect July 1, 2016.

**Presentation by DCF on
the Baker & Marchman Acts**



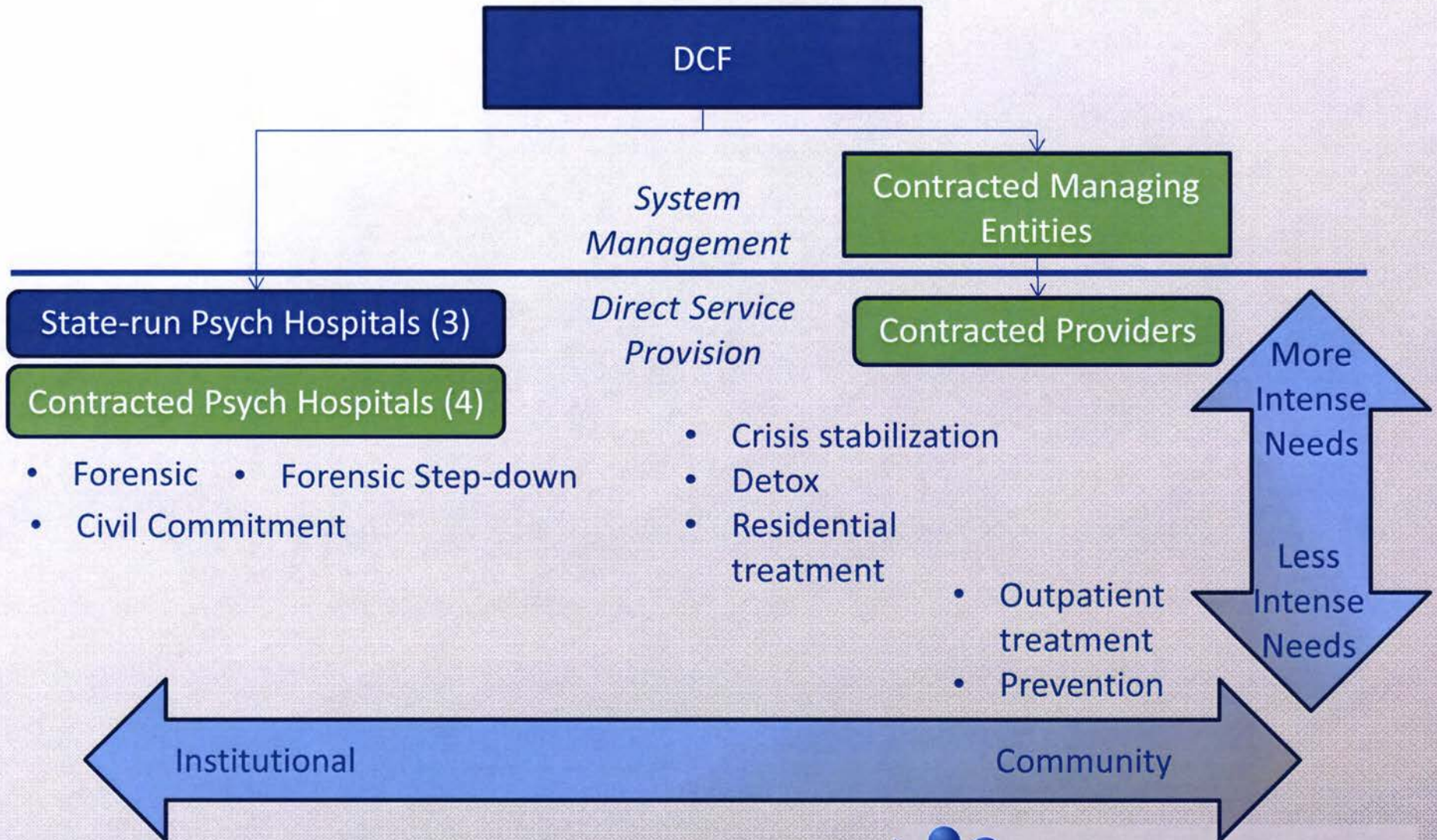
Baker Act and Marchman Act

Overview and Comparison

Children, Families and Seniors Subcommittee

October 20, 2015

DCF System Elements

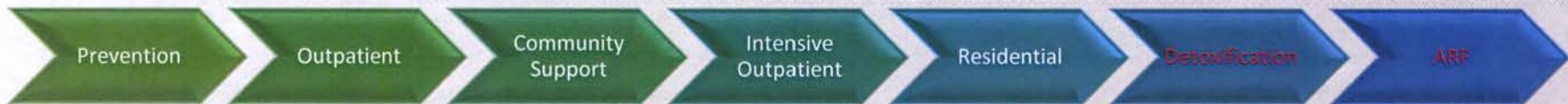


Mental Health and Substance Abuse Community Services Array

- Adult Mental Health



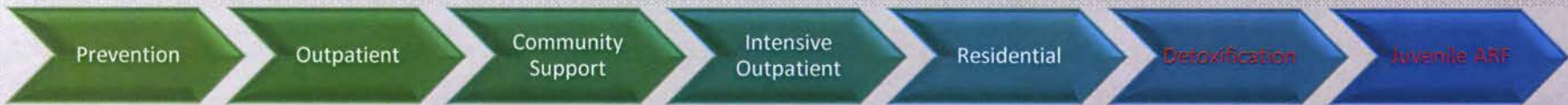
- Adult Substance Abuse



- Children's Mental Health



- Children's Substance Abuse



Red font indicates crisis service



People Served in FY 2014-15

Community Services by Program Area

Adults Community Mental Health	Children Community Mental Health	Adult Community Substance Abuse	Children Community Substance Abuse
182,650	46,926	92,380	32,727



Community Licensed Bed Capacity

Provider Type	Number of Licensed Beds
Crisis Stabilization Unit (Baker Act)	1,164
Short-term Residential Treatment (Baker Act)	111
Hospital Psychiatric Inpatient Unit (Baker Act)	3,379
Subtotal (Baker Act Receiving Beds)	4,654
Addiction Receiving Facility (Marchman Act)	244
Licensed Inpatient Detoxification Unit (Marchman Act)	1,256
Subtotal (Marchman Act Inpatient Beds)	1,500
TOTAL	6,154



Baker Act and Marchman Act

- Acts are generally intended to:
 - Protect individuals' civil rights
 - Provide appropriate treatment
 - Protect public safety



Baker Act and Marchman Act

- Mental illness vs. substance use disorder:
 - Baker Act for mental illness, Marchman Act for substance abuse.
- Crisis stabilization vs. longer-term treatment:
 - Acts govern both.
- Voluntary v. involuntary:
 - Both acts provide for admission to both types.
 - Special protections for involuntary admissions.
- Secure v. nonsecure facilities



Baker Act Overview

- Enacted in 1971 to provide the least restrictive form of intervention and Bill of Rights for people who have mental illnesses.
- Provides for voluntary and involuntary examination and treatment, including inpatient and outpatient.
- Specifically excludes substance abuse impairment and intoxication from the definition of mental illness.



Baker Act

Admission Types

- Voluntary Admission: Individual voluntarily seeks treatment services.
- Involuntary Admissions:
 - Non-court involved:
 - Involuntary examination initiated by:
 - Law enforcement
 - Qualified professional
 - Court involved:
 - Involuntary examination
 - Involuntary treatment

Baker Act

Voluntary Treatment

- Adults may apply for admission if they have capacity to give express and informed consent.
- Minors must have hearing to verify voluntariness of consent.
- Must be given Notice of Right to Discharge.



Baker Act

Involuntary Treatment Options

- Involuntary Examination:
 - Must release after 72 hours unless:
 - Criteria for involuntary inpatient placement are met; or
 - Patient elects to go to voluntary status.
- Involuntary Inpatient Placement:
 - Court may initially order treatment up to 6 months.
 - Placement may occur in receiving or treatment facilities.
- Involuntary Outpatient Placement:
 - Court may initially order treatment up to 6 months.
 - Provider must be identified and treatment plan included, with certification that services are available.

Baker Act

Involuntary Examination Criteria

Person has a mental illness and as a result:

- Refused voluntary examination; or
- Is unable to determine that examination is necessary; and
- Is likely to suffer from neglect or refuse to care for self, posing a real and present threat of harm to self; or
- Is likely to cause serious bodily harm to self or others in the near future.

Baker Act

Involuntary Inpatient Placement Criteria

Person has a mental illness and as a result:

- Refused voluntary placement or is unable to determine that placement is necessary **and**
- Is incapable of surviving alone or with the help of others and without treatment is likely to suffer from neglect or refusal to care for himself/herself **and**
 - This neglect or refusal of care poses a real and present threat of substantial harm to his/her well-being **or**
 - There is a substantial likelihood that in the near future he/she will inflict serious bodily harm on themselves or others **and**
- All available less restrictive treatment alternatives have been judged to be inappropriate.



Baker Act

Involuntary Outpatient Placement Criteria

- 18 years of age or older and has mental illness
- Person has:
 - At least two (2) involuntary admissions in the last 36 months or received MH services in a forensic or correctional facility; OR
 - Engaged in one (1) or more acts of violent behavior (toward self or others) in the last 36 month
- History of lack of compliance with treatment and unlikely to participate voluntarily in treatment
- Unlikely to survive safely in the community; treatment is needed to prevent harm to self or others and is likely to benefit the person
- Less restrictive alternatives inappropriate or unavailable



Marchman Act Overview

- Enacted in 1993 to address services and individual rights for adults and children with substance abuse issues.
- Provides for voluntary and involuntary examination and treatment, including inpatient and outpatient.
- Is **not** the substance abuse version of the Baker Act.

Marchman Act

Admission Types

- Voluntary Admission: Individual voluntarily seeks treatment services
- Involuntary Admissions:
 - Non-Court Involved Assessment and Stabilization:
 - Protective Custody: Initiated by law enforcement
 - Emergency: Initiated by a spouse, guardian, relative, adult or physician (requires physician's certificate of assessment and need)
 - Alternative Involuntary Assessment for minors: Initiated by adult or guardian
 - Court Involved:
 - Involuntary Assessment/Stabilization
 - Involuntary Treatment



Marchman Act

Voluntary Treatment

- If person is impaired by substance abuse and it is within financial, space, medical, and behavioral management capacity of the provider, they must accept.
- Must be least restrictive setting.
- Minors may seek treatment voluntarily and disability of minority is removed.



Marchman Act

Involuntary Treatment Options

- Involuntary assessment/stabilization
 - May occur inpatient or outpatient
 - Alternative involuntary assessment for minors
 - Timelines differ based on initiation method
- Involuntary treatment
 - May occur inpatient or outpatient
 - May initially order treatment up to 60 days



Marchman Act

Involuntary Assessment/Stabilization Criteria

Good faith reason to believe person:

- Is substance abuse impaired,
- Has lost power of self-control over substance use, and:
 - Has inflicted, or threatened or attempted to inflict, or is likely to inflict, physical harm on self or others; or
 - Is in need of treatment and, due to substance abuse, and is so impaired he/she cannot understand need for services or make a rational decision.
- *Mere refusal to receive services not evidence of lack of judgment.*



Marchman Act

Involuntary Treatment Criteria

Individual must meet criteria for involuntary admission, and additionally has been:

- Placed under **protective custody** within the previous **10 days**;
- Subject to an **emergency admission** within the previous **10 days**,
- Assessed by a **qualified professional** within the previous **5 days**;
- Subject to a **court ordered** involuntary assessment and stabilization within the previous **12 days**, or subject to **alternative** involuntary admission within the previous **12 days** (if a minor).



Baker Act and Marchman Act

Similarities

- Both address crisis stabilization AND longer-term treatment
- Both govern voluntary AND involuntary admissions
- Criteria for emergency assessment and involuntary treatment include potential injury to self and others
- Both offer secure placements

Baker Act and Marchman Act Differences

	Baker Act	Marchman Act
Transportation for crisis assessment/examination	Law enforcement must transport examinees.	Does not mandate transportation.
Requirement to accept for crisis assessment/examination	Crisis Stabilization Units (CSU) must accept individuals for examination.	Detox and Addiction Receiving Facilities (ARF) may only admit under certain conditions and cannot exceed licensed capacity.

Baker Act and Marchman Act Differences

	Baker Act	Marchman Act
Maximum initial period of examination/assessment	Up to 72 hrs.	Up to 5 days unless court ordered, then up to 12 days.
Who may initiate crisis admission	Law enforcement, practitioner, court.	Law enforcement, physician, spouse, guardian, relative, practitioner, service provider, three adults with knowledge of impairment.



Baker Act and Marchman Act Differences

	Baker Act	Marchman Act
Petitioner/Counsel for involuntary (long-term) treatment:	Petitioner-- Treatment facility; Counsel—state attorney	Petitioner--Family or other interested party Counsel—private or pro se
Client counsel for involuntary (longer-term) treatment:	Public Defender	Regional Civil Counsel

Baker Act and Marchman Act Differences

	Baker Act	Marchman Act
Facilities and security	CSU – locked	Detox--unlocked; ARF—locked; jails— locked (adults only)
Length of stay for longer-term commitment	Initially up to 6 months with the ability to extend an additional 6 months	60 days with the ability to extend for an additional 90 days



Baker Act and Marchman Act Emergency Treatment Access Facilities

Types	Act	Examples/Locations
CSU	Baker	Various
Hospital	Baker	Various
Detox	Marchman	Various
Addictions receiving facility	Marchman	Various
Juvenile addictions receiving facility	Marchman	Various
Central receiving facility	Both	Orange County
Triage center	Both	Lee County
Mobile crisis unit	Both	Broward and Palm Beach Counties



Baker Act and Marchman Act Emergency Treatment Access

Considerations:

- Information for public on how to access emergency treatment (especially Marchman)
- Intake facility availability
- Utilization of and distance to CSU and detox/ARF beds
- Transportation alternatives
 - Exception plans allow communities to transport *other* than to nearest Baker Act receiving facility



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**Baker & Marchman Act
Panel Biographies**

Sheriff Bob Gualtieri

Bob Gualtieri has been the Pinellas County Sheriff since November 2011. Sheriff Gualtieri began his career with the Sheriff's Office over 30 years ago and has served in many different capacities, including the agency's General Counsel and the Chief Deputy (second in command).

Sheriff Gualtieri began his law enforcement career in 1982 when he joined the Pinellas County Sheriff's Office as a detention deputy working in the County Jail. He then worked for the Dunedin Police Department as a police officer before returning to the Sheriff's Office as a patrol deputy. During his career, Sheriff Gualtieri also served in the Investigative Operations and Narcotics Bureaus where he conducted complex international drug trafficking and money laundering investigations for eight years while serving on federal taskforces. In 1991 he was named Pinellas County Deputy Sheriff of the Year for his efforts in dismantling major drug trafficking organizations through the use of electronic surveillance.

Sheriff Gualtieri earned a Bachelor's degree with high honors from Eckerd College. In 1998 he left the Sheriff's Office to attend Stetson University College of Law, from which he graduated cum laude. After graduating from law school Sheriff Gualtieri entered private law practice with a firm in Tampa where he represented employers in labor and employment law litigation.

Sheriff Gualtieri returned to the Sheriff's Office in 2006, serving as General Counsel and Chief Deputy until becoming Sheriff in 2011. During the economic downturn between 2009 and 2013 Sheriff Gualtieri oversaw a reduction in the Sheriff's Office budget of \$108 million and the elimination of over 600 positions. During that same period the Sheriff's Office reduced crime in its service area by over 20%.

Sheriff Gualtieri is an active member of Florida and national organizations that affect law enforcement policy, including the Florida Sheriff's Association, National Sheriff's Association, Major County Sheriff's Association, Police Executive Research Forum, and the International Association of Chiefs of Police.

Sheriff Gualtieri is admitted to practice law in all Florida courts, the United States District Courts for the Northern, Middle, and Southern Districts of Florida, as well as the United States Court of Appeals for the Eleventh Circuit. Sheriff Gualtieri is a member of the Florida Bar Association, American Bar Association, and the Federal Bar Association. He is also a member of the Clearwater, St. Petersburg and Hillsborough County Bar Associations.

Sheriff Gualtieri is active in the community serving on numerous boards, including the Boys & Girls Club of the Suncoast, Pinellas Homeless Leadership Board, Sheriff's Police Athletic League and the Pinellas Education Foundation.

Anne Lotierzo, LMHC

Anne C. Lotierzo is a Licensed Mental Health Counselor employed as an Emergency Screener at New Horizons of the Treasure Coast since January, 2013. Anne has a Master's Degree in Counseling Psychology from Palm Beach Atlantic University, a Bachelor's Degree in English and Philosophy from Villanova University, a Certificate of Elementary Education from Florida Atlantic University and is fluent in Spanish.

She taught elementary school for 18 years, and in addition to her work at New Horizons, she is the Director of Pregnancy Care Center, Inc. which serves young women facing unplanned pregnancies in the local Treasure Coast community. Anne is a co-host for a local radio show that addresses social issues and airs weekly on 100.1 FM.

Richard Brown, MSW

Richard E. Brown, MSW, for the past 8 years has served as Chief Executive Officer of the Agency for Community Treatment Services Inc. in Tampa, Florida. Richard rose to the CEO position from hiring onto ACTS in 1983 as the Director of Planning and Evaluation and receiving a subsequent promotion to Chief Operating Officer.

Some noteworthy accomplishments within his career with ACTS include: being a founding member for the creation of the Hillsborough County Coalition for the homeless; the development of Florida's first Juvenile Assessment Center and the replication of that model throughout the state and nationally; participating as a lead represented for the substance abuse field through the merger of the alcohol and drug statutes, which culminated in 1993; the implementation of the State's first Addictions Receiving Facility; being a founding member of the Central Florida Behavioral Health Network; and, serving as an adjunct faculty member at University of South Florida, Florida Mental Health Institute.

In 2004, Richard received the Louis de la Parte Florida Mental Health Institute's Innovator Award. Other related recognitions include the "Administrator of the Year" and the "Leadership Award" presented by Florida Alcohol and Drug Abuse Association.

Kathy Smith, Public Defender

In 2008, Ms. Smith was elected Public Defender for the 20th Judicial Circuit serving the citizens of Charlotte, Collier, Hendry, Glades, and Lee Counties. Ms. Smith obtained her BA and Law Degree from The University of Florida, and recently earned her Master's Degree in Public Administration from Florida Gulf Coast University.

Ms. Smith began her law practice as an assistant Public Defender in 1990. She currently specializes in representing clients living with mental illness and is a past recipient of Advocate of the Year awarded by Lee Mental Health Inc. Ms. Smith was honored with a Florida Senator's Proclamation for her advocacy on behalf of mentally ill clients. Because of her passion to assist clients living with and recovering from mental illness and substance abuse issues, Ms. Smith was appointed on behalf of the Florida Public Defender Association to serve on Florida Supreme Court's Substance Abuse and Mental Health task force.

In addition to Ms. Smith's role as Public Defender for the 20th Circuit, she is very involved in the community. She is an adjunct professor at Florida Gulf Coast University teaching Constitutional Criminal Procedure. She has served on the Board of Directors for the PACE School for Girls in Lee County, Southwest Florida Addiction Services, Lee Mental Health Inc., and the Institute for Youth and Justice Studies through Florida Gulf Coast University. Lastly, Ms. Smith is also a member of Elk's Lodge 2596 in Cape Coral, FL. and currently serves in the role of Justice of the Forum.

Putting her Public Administration degree to good use, Ms. Smith's office has been a recipient of the prestigious Prudential Davis Productivity Award recognizing major government improvement initiatives for 2011, 2012, and 2013.

Eddie Evans, Assistant State Attorney

Eddie Evans, Assistant State Attorney, Second Judicial Circuit since August, 1992. He is currently assigned to the Tallahassee office and responsible for Baker Act cases, Jimmy Ryce Act cases, Post Conviction cases, and Death Penalty cases among other responsibilities.

Brenda Mader, Attorney

Brenda Mader is a member of the Florida, Kansas and Maryland Bar Associations. Brenda received her Juris Doctorate from the University of Florida in 1986 and her undergraduate degree from the University of Virginia in 1984.

Brenda has a broad based legal background in criminal and general civil law, with emphasis in litigation, particularly complex felony and capital criminal defense and prosecution cases. She has served in many capacities in the State of Florida, including Assistant State Attorney, Staff Attorney, Senior Attorney and Assistant Public Defender. As Assistant Public Defender, she handled all juvenile, mental health (Baker Act) and misdemeanor cases for a two county area.

Brenda then served as Chief Public Defender and Assistant District Attorney in Topeka, Kansas along with Adjunct Professor of Law at the Washburn University College of Law. Brenda moved on to serve as Assistant Public Defender in Rockville, Maryland, followed by Assistant Attorney General in Hagana, Guam. Brenda then returned to Florida as a Senior Attorney for the Department of Children and Families and is now with Office of Regional Conflict Counsel, Circuit 1 as a Regional Conflict Attorney.

John Bryant, Assistant Secretary for Substance Abuse and Mental Health

John N. Bryant is Assistant Secretary for Substance Abuse and Mental Health at the Florida Department of Children and Families. Bryant previously served as Vice President for Legislative and External Affairs at the Florida Council for Community Mental Health, working with and advising state agencies on legislative and budget priorities, policy development, contract services, behavioral health program design, research and advocacy.

Before that he worked with the department (and under the Department of Health and Rehabilitative Services) for 36 years in multiple roles both regionally and at the statewide level including Chief of Operations for the Substance Abuse Program Office, Chief of the State Mental Health Treatment Facilities, Assistant Secretary for Mental Health Programs, Chief of Adult Mental Health and others.

He completed course work for a Master's degree in Public Health at the University of South Florida, and has a Bachelor's degree in Social Sciences from the University of West Florida.