

## Appendix G

### “Law Enforcement and the Baker Act”

Baker Act Handbook and User Reference Guide 2008  
State of Florida Department of Children & Families

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#### Procedures

1. **Facilities Must Accept.** The Baker Act states that the nearest receiving facility must accept persons brought by law enforcement officers for in-voluntary examination. If the receiving facility believes the person should be “medically cleared,” the facility must arrange appropriate medical transport for this purpose. It would be inappropriate for a law enforcement officer to place a person at medical risk back into the cruiser. If the receiving facility is at capacity or otherwise cannot meet the person’s needs due to age or financial need, it should accept the person and arrange an appropriate transfer to another receiving facility.

2. **Weapons.** The Baker Act prohibits firearms or deadly weapons from being brought onto the grounds of a hospital providing mental health services, including by law enforcement officers, unless specifically authorized by the hospital administrator. Law enforcement officers may choose to lock their firearms in their vehicle prior to entering a facility or may place the weapons in a lock-box at the facility, if one exists. [s. 394.458(1), F.S.]

3. **Hospital Security.** A law enforcement officer does not have to wait at a hospital or other receiving facility for the person to be medically screened, treated, or to have their insurance verified. The officer’s only duties are to present the person and the required completed paper-work. However, if the person is acting in a dangerous manner, beyond the ability of the facility staff to manage, the officer should stay to assist for a temporary period until hospital clinical or security staff can arrive.

4. **Transfers.** A law enforcement officer does not have to return to a hospital to transfer the person to another facility following medical clearance. Once the person 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.

The federal Emergency Medical Treatment and Active Labor Act (EMTALA) pre-empts any state law with which it is in conflict. EMTALA requires that a hospital accept any person who presents or is brought to the emergency room for the purpose of performing a medical screening. If the ED staff determine the person has an emergency medical condition (including psychiatric and substance abuse emergencies), the hospital is then responsible for the person until the emergency has been stabilized, including the person’s discharge or transfer from the hospital to another facility that has the capability and capacity to manage the person’s condition.

This includes, among other responsibilities, the duty to provide a safe and appropriate method of transportation to the destination facility.

#### On the Web:

<http://209.85.165.104/search?qcache:ns6mi7SxTHEJ:www.dcf.state.fl.us/mentalhealth/laws/08appg.pdf+%22Baker+Act%22+law+enforcement+obligations&hlen&ctclnk&cd3&glus>