

# Dementia and the Florida Mental Health Act

Impacts on medical care for vulnerable adults

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# Core Challenge

Floridians diagnosed with dementia who are admitted to a general hospital for necessary medical care, but lack the ability to participate in medical decision making, cannot be protected from leaving the facility.

# Alzheimer's Disease

Individuals with AD and related Dementias are more likely to require medical care and experience a higher rate of medical hospitalization.



## 80%

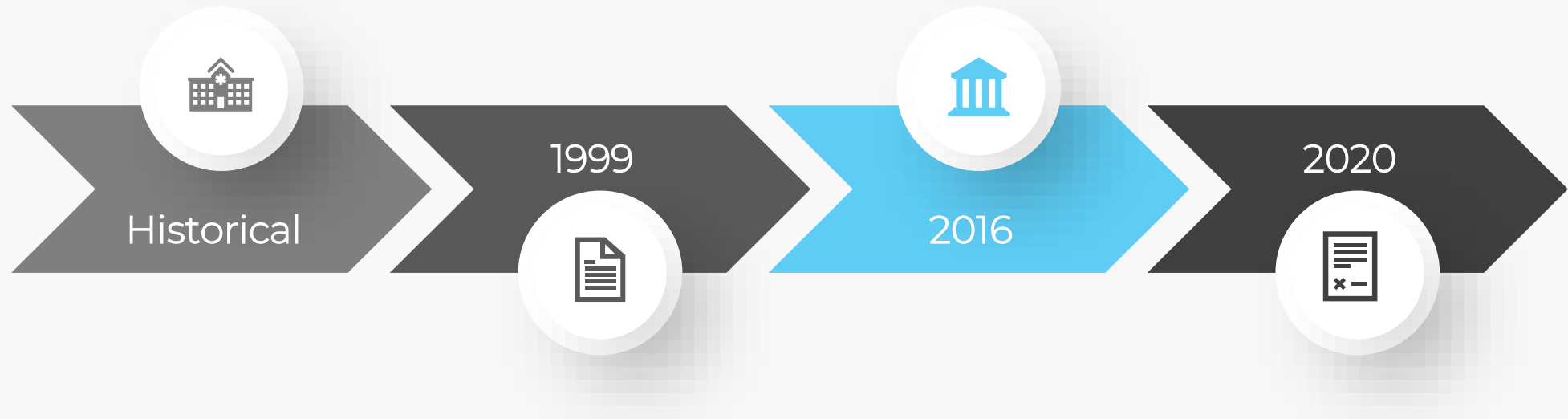
Persons diagnosed with AD have at least one other chronic medical condition

## 2x

Greater number of hospitalizations of patients with AD than older adults without the disease

# Overview

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Application of  
Florida Mental  
Health Act  
outside of  
psychiatric  
settings, namely  
in acute care  
medical facilities

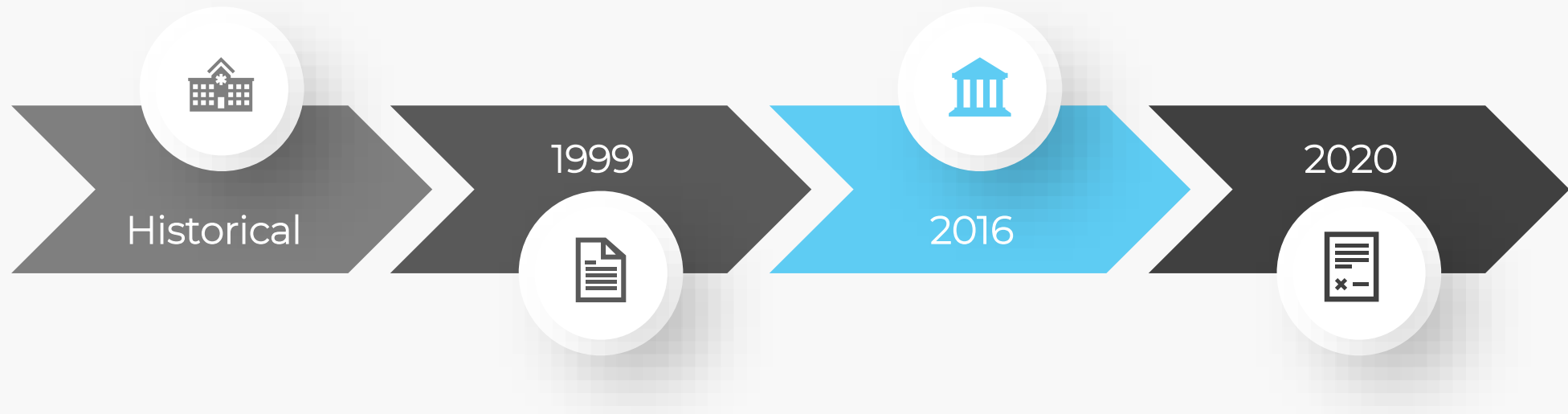
## “The Status Quo”

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1. The Certificate of Professional Initiating Involuntary Examination serves as a mechanism for preventing the discharge of individuals suffering from a mental illness which results in the individual meeting criteria for the Certificate.
2. When faced with a patient who lacks the ability to provide informed consent for discharge against medical advice, the Certificate has also been used as a mechanism to “pause the clock” so that an accurate determination of decision making abilities may be conducted, commonly with the second opinion of an expert in cognition.
3. The use of the Certificate would invoke the facility’s authority to prevent the individual from leaving the facility, and would authorize community law enforcement to return the individual for necessary medical care as indicated.

# Overview

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Application of Florida  
Mental Health Act  
outside of psychiatric  
settings

# Commission on Fairness

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1999



Florida  
Supreme Court  
Commission on  
Fairness

Organized in 1997 as a structured investigation into the Florida Mental Health Act, includes its execution and vulnerabilities

Final report was published in 1999, and highlighted concerns for...

Misuse of the Baker Act as applied to persons with dementia

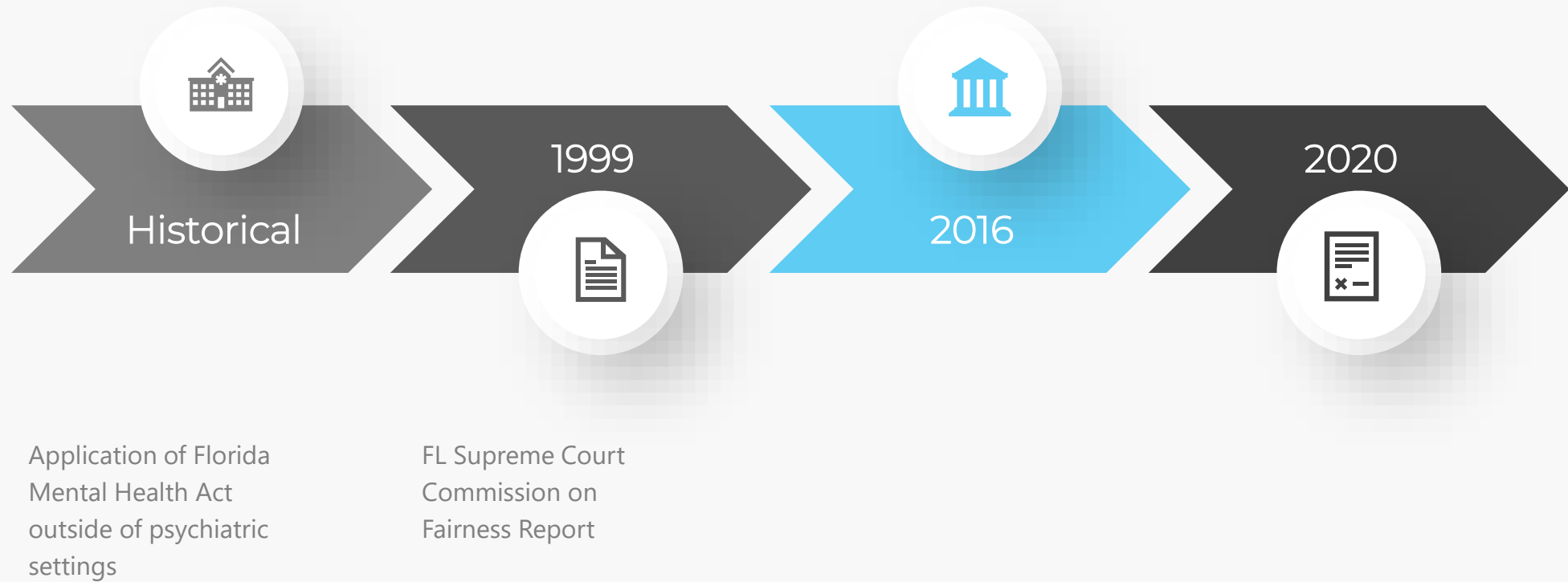
Financial exploitation of the Baker Act by facilities

Inappropriate applications resulting in “dumping” from facilities

Among other recommendations, included *“The Florida Legislature should consider whether the definition of mental illness should be amended to exclude dementia, Alzheimer’s disease, and traumatic brain injury”*

# Overview

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# Changes to Involuntary Placement

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2016



Senate Bill 12,  
House Bill 7097,  
and Involuntary  
Placement

January 2016: SB 12 amended in Appropriations Subcommittee adding the exclusion...

*"The court may not order an individual with traumatic brain injury or dementia who lacks a co-occurring mental illness to be involuntarily placed in a state treatment facility."*

# Changes to Involuntary Placement

2016



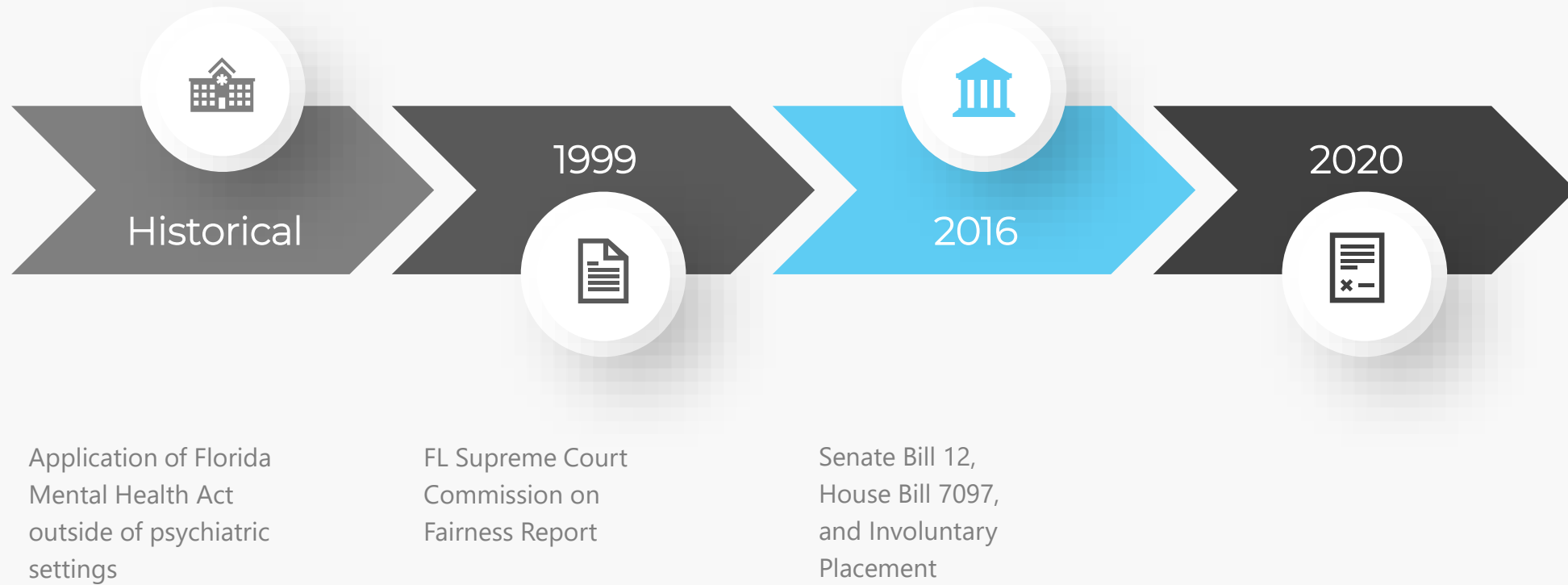
Senate Bill 12,  
House Bill 7097,  
and Involuntary  
Placement

February 2016: HB 7097 amended during Health and Human Services Committee with the same verbiage as the Senate Bill, though with an addition...

*"If a person has been diagnosed with Alzheimer's disease or a dementia-related disorder, this condition must be indicated on the ex parte order, written report, or certificate. When initiating transport of such person, a law enforcement officer shall collect any information regarding his or her condition, medications, and needs provided by a health professional, family member, caregiver, or other individual, and shall provide this to the receiving facility immediately upon arrival. As soon as practicable, such person shall be temporarily placed in a secure private area within the receiving facility, if available, and clinically indicated, where the person shall be permitted to be accompanied by a family member or caregiver provided it is safe for him or her to do so."*

# Overview

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# Changes to Involuntary Examination

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2020



Senate Bill 7012  
and Involuntary  
Examination

November 2019: SB 7012 amended on the floor to add  
“dementia, traumatic brain injury” to the list of diagnoses not  
classified as “Mental Illness” in Fla. Stat. § 394.45

# Results by the Numbers

Transiently increased decline in the number of involuntary examinations for 65+ post-2020 relative to other age groups, but subsequently realigned to all other age groups

**Table 1a: Involuntary Examinations for Five Fiscal Years for All Ages**

Fiscal Year (FY)	Involuntary Exams	Year-to-Year Percent Change	
		Involuntary Exams	Population
2021-2022	170,048	-12.65%	1.45%
2020-2021	194,680	-3.91%	1.75%
2019-2020	202,598	-3.98%	1.74%
2018-2019	210,992	2.53%	1.80%
2017-2018	205,781	2.92%	1.62%

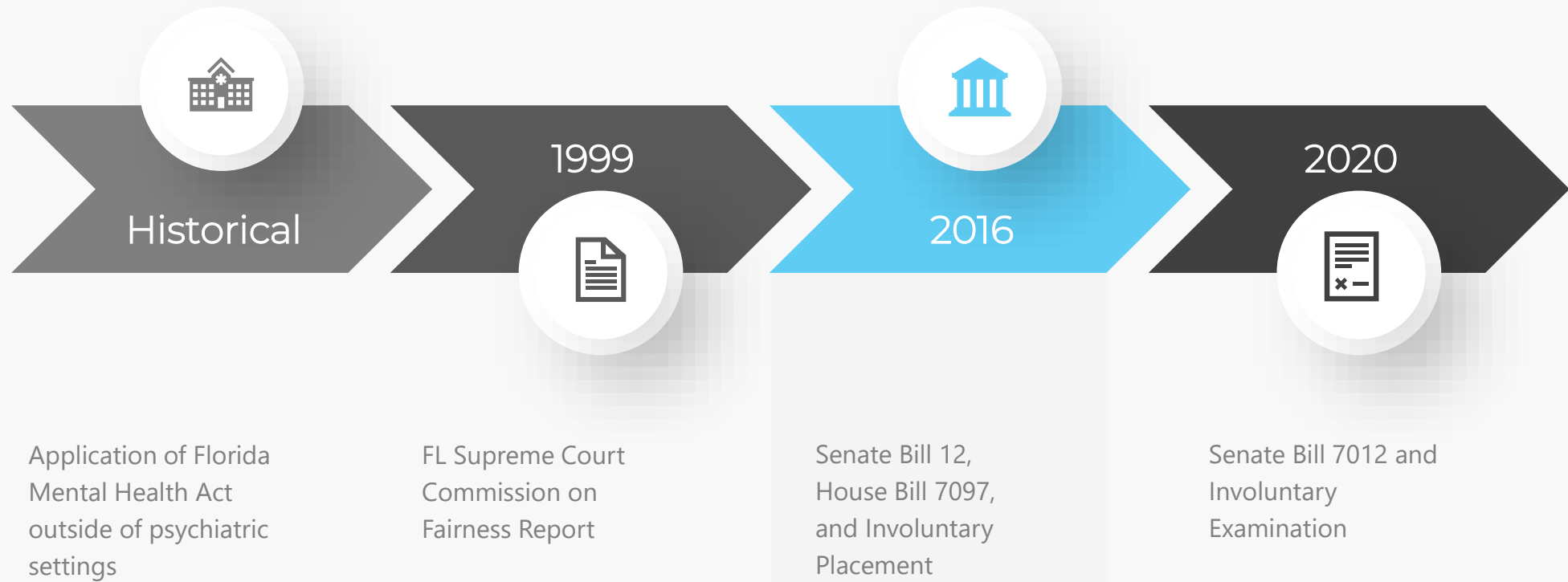
**Table 1b: Involuntary Examinations for Five Fiscal Years by Age Groups**

Fiscal Year (FY)	Involuntary Exams		Year-to-Year Percent Change	
	Counts	% of Total for All Ages	Involuntary Exams	Population
Age: < 18				
2021-2022	34,234	20.13%	-11.21%	1.46%
2020-2021	38,557	19.81%	7.21%	1.12%
2019-2020	35,965	17.75%	-5.06%	1.48%
2018-2019	37,882	17.95%	5.00%	1.52%
2017-2018	36,078	17.53%	10.18%	1.27%
Age: 18-24				
2021-2022	21,823	12.83%	-11.64%	1.42%
2020-2021	24,699	12.69%	-1.41%	0.21%
2019-2020	25,051	12.36%	-6.01%	0.57%
2018-2019	26,653	12.63%	1.23%	0.59%
2017-2018	26,328	12.79%	0.32%	0.37%
Age: 25-64				
2021-2022	100,559	59.14%	-12.83%	1.44%
2020-2021	115,359	59.26%	-7.32%	1.40%
2019-2020	124,474	61.44%	-2.80%	1.44%
2018-2019	128,061	60.69%	2.43%	1.50%
2017-2018	125,017	60.75%	0.62%	1.30%
Age: 65+				
2021-2022	11,606	6.83%	-12.66%	1.48%
2020-2021	13,288	6.83%	-10.15%	3.99%
2019-2020	14,789	7.30%	-4.32%	3.26%
2018-2019	15,457	7.33%	1.35%	3.40%
2017-2018	15,251	7.41%	6.29%	3.36%

\*Less than 2% of involuntary examinations were missing the date of birth necessary to compute age, which is why the total summed percentages for each year in this table do not sum to 100%.

# Overview

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# Alzheimer's Disease

Individuals with AD and related Dementias are more likely to require medical care and experience a higher rate of medical hospitalization.



## 80%

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## 2x

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# Protected

From excessive, exploitative, and otherwise inappropriate application of the Baker Act

# Vulnerable

To inappropriate medical care arising from an inability to ensure that the person can remain in a hospital for treatment



>580,000  
Floridians Living  
with Alzheimer's  
Disease

Strong recommendation for expansion of statutory guidance surrounding the management of incapacitated individuals, and one which preferably includes a system of necessary oversight



# In the Absence of Guidance...

Patient is Released

Vulnerable adult leaves the facility, and responsibility is placed upon community law enforcement and state level protective services.

No timely care can be provided.

Patient is held,  
under BA52

Individual with dementia is placed under BA52 under the presumption that there "may" be a psychiatric disorder.

Goes against the spirit of the progress made.

Patient is held,  
not under BA52

Individual is held by hospital staff at the discretion of a healthcare provider.

There are no limits, restrictions, or oversight to this.

# Opportunities?

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Reintroduction of  
Dementia Care to  
the Florida Mental  
Health Act

Advantages of having a  
comprehensive system of  
protections already in  
place, which could be  
extended and refined for  
applicability to people with  
dementia

Development of  
Statutory  
Guidance and  
Authority

Standardization of  
medical decision  
making capacity  
assessments along  
with considerations  
for restriction of  
incapacitated  
individuals

Broader  
Mandates for  
Electronic BA52 &  
Reporting

Would highlight the  
frequency with  
which the BA52 is  
inappropriately  
being applied for  
medical incapacity,