

1 A bill to be entitled
2 An act relating to behavioral health care services;
3 amending s. 394.453, F.S.; revising legislative intent
4 regarding the Florida Mental Health Act; amending s.
5 394.463, F.S.; requiring the Agency for Health Care
6 Administration to periodically provide copies of
7 certain documents to the Department of Children and
8 Families; amending s. 394.4655, F.S.; revising the
9 duration of involuntary outpatient placement orders;
10 amending s. 394.467, F.S.; limiting involuntary
11 inpatient placement orders to up to 90 days under
12 certain circumstances; amending s. 397.305, F.S.;
13 revising legislative intent regarding mental health
14 and substance abuse treatment services; amending s.
15 397.675, F.S.; revising criteria for involuntary
16 admission for assessment, stabilization, and treatment
17 of persons with substance abuse impairment; amending
18 s. 397.679, F.S.; renaming the physician's certificate
19 as the professional's certificate; amending s.
20 397.6791, F.S.; conforming provisions; amending s.
21 397.6793, F.S.; specifying professionals authorized to
22 execute a certificate for emergency admission;
23 providing criteria for emergency admission; amending
24 s. 397.6795, F.S.; conforming provisions; amending s.
25 397.681, F.S.; prohibiting a court from charging a fee
26 for filing a petition for involuntary assessment and

27 stabilization or a petition for involuntary treatment;
28 amending s. 397.6811, F.S.; revising who may file a
29 petition for involuntary assessment and stabilization;
30 amending s. 397.6818, F.S.; limiting the duration of a
31 court order authorizing involuntary assessment and
32 stabilization; amending s. 397.6819, F.S.; revising
33 time periods for involuntary assessment and
34 stabilization; revising the responsibilities of a
35 service provider who admits an individual for
36 involuntary assessment and stabilization; repealing s.
37 397.6821, F.S., relating to a request for an extension
38 of time for completion of involuntary assessment and
39 stabilization; amending s. 397.6955, F.S.; revising
40 requirements for scheduling a hearing on a petition
41 for involuntary treatment; amending ss. 397.697,
42 397.6971, and 397.6977, F.S.; revising the maximum
43 duration of court-ordered involuntary treatment;
44 conforming provisions; amending s. 397.6773, F.S.;
45 conforming a cross-reference; providing an effective
46 date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Section 394.453, Florida Statutes, is amended
51 to read:

52 394.453 Legislative intent.—

53 (1) It is the intent of the Legislature:

54 (a) To authorize and direct the Department of Children and
55 Families to evaluate, research, plan, and recommend to the
56 Governor and the Legislature programs designed to reduce the
57 occurrence, severity, duration, and disabling aspects of mental,
58 emotional, and behavioral disorders.

59 (b) ~~It is the intent of the Legislature~~ That treatment
60 programs for such disorders ~~shall~~ include, but not be limited
61 to, comprehensive health, social, educational, and
62 rehabilitative services to persons requiring intensive short-
63 term and continued treatment in order to encourage them to
64 assume responsibility for their treatment and recovery. It is
65 intended that:

66 1. Such persons be provided with emergency service and
67 temporary detention for evaluation when required;

68 2. Such persons ~~that they~~ be admitted to treatment
69 facilities on a voluntary basis when extended or continuing care
70 is needed and unavailable in the community;

71 3. ~~that~~ Involuntary placement be provided only when expert
72 evaluation determines ~~that~~ it is necessary;

73 4. ~~that~~ Any involuntary treatment or examination be
74 accomplished in a setting that ~~which~~ is clinically appropriate
75 and most likely to facilitate the person's return to the
76 community as soon as possible; and

77 5. ~~that~~ Individual dignity and human rights be guaranteed
78 to all persons who are admitted to mental health facilities or
79 who are being held under s. 394.463.

80 (c) That services provided to persons in this state use
81 the coordination-of-care principles characteristic of recovery-
82 oriented services and include social support services, such as
83 housing support, life skills and vocational training, and
84 employment assistance, necessary for persons with mental health
85 and substance use disorders to live successfully in their
86 communities.

87 (d) That state policy and funding decisions be driven by
88 data concerning populations served and the effectiveness of
89 services provided.

90 (e) That licensed, qualified health professionals be
91 authorized to practice to the full extent of their education and
92 training in the performance of professional functions necessary
93 to carry out the intent of this part.

94 (2) It is the further intent of the Legislature that the
95 least restrictive means of intervention be employed based on the
96 individual needs of each person, within the scope of available
97 services. It is the policy of this state that the use of
98 restraint and seclusion on clients is justified only as an
99 emergency safety measure to be used in response to imminent
100 danger to the client or others. It is, therefore, the intent of
101 the Legislature to achieve an ongoing reduction in the use of

102 restraint and seclusion in programs and facilities serving
103 persons with mental illness.

104 Section 2. Paragraph (e) of subsection (2) of section
105 394.463, Florida Statutes, is amended to read:

106 394.463 Involuntary examination.—

107 (2) INVOLUNTARY EXAMINATION.—

108 (e) The Agency for Health Care Administration shall
109 receive and maintain the copies of ex parte orders, involuntary
110 outpatient placement orders issued pursuant to s. 394.4655,
111 involuntary inpatient placement orders issued pursuant to s.
112 394.467, professional certificates, and law enforcement
113 officers' reports. The agency shall provide copies of these
114 documents to the department on a monthly or more frequent basis.

115 These documents shall be considered part of the clinical record,
116 governed by ~~the provisions of~~ s. 394.4615. The agency shall
117 prepare annual reports analyzing the data obtained from these
118 documents, without information identifying patients, and shall
119 provide copies of reports to the department, the President of
120 the Senate, the Speaker of the House of Representatives, and the
121 minority leaders of the Senate and the House of Representatives.

122 Section 3. Paragraph (b) of subsection (6) of section
123 394.4655, Florida Statutes, is amended to read:

124 394.4655 Involuntary outpatient placement.—

125 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

126 (b)1. If the court concludes that the patient meets the
127 criteria for involuntary outpatient placement pursuant to

128 subsection (1), the court shall issue an order for involuntary
129 outpatient placement. The court order shall be for a period of
130 up to 90 days ~~6 months~~. The order must specify the nature and
131 extent of the patient's mental illness. The order of the court
132 and the treatment plan shall be made part of the patient's
133 clinical record. The service provider shall discharge a patient
134 from involuntary outpatient placement when the order expires or
135 any time the patient no longer meets the criteria for
136 involuntary placement. Upon discharge, the service provider
137 shall send a certificate of discharge to the court.

138 2. The court may not order the department or the service
139 provider to provide services if the program or service is not
140 available in the patient's local community, if there is no space
141 available in the program or service for the patient, or if
142 funding is not available for the program or service. A copy of
143 the order must be sent to the Agency for Health Care
144 Administration by the service provider within 1 working day
145 after it is received from the court. After the placement order
146 is issued, the service provider and the patient may modify
147 provisions of the treatment plan. For any material modification
148 of the treatment plan to which the patient or the patient's
149 guardian advocate, if appointed, does agree, the service
150 provider shall send notice of the modification to the court. Any
151 material modifications of the treatment plan which are contested
152 by the patient or the patient's guardian advocate, if appointed,

153 must be approved or disapproved by the court consistent with
154 subsection (2).

155 3. If, in the clinical judgment of a physician, the
156 patient has failed or has refused to comply with the treatment
157 ordered by the court, and, in the clinical judgment of the
158 physician, efforts were made to solicit compliance and the
159 patient may meet the criteria for involuntary examination, a
160 person may be brought to a receiving facility pursuant to s.
161 394.463. If, after examination, the patient does not meet the
162 criteria for involuntary inpatient placement pursuant to s.
163 394.467, the patient must be discharged from the receiving
164 facility. The involuntary outpatient placement order shall
165 remain in effect unless the service provider determines that the
166 patient no longer meets the criteria for involuntary outpatient
167 placement or until the order expires. The service provider must
168 determine whether modifications should be made to the existing
169 treatment plan and must attempt to continue to engage the
170 patient in treatment. For any material modification of the
171 treatment plan to which the patient or the patient's guardian
172 advocate, if appointed, does agree, the service provider shall
173 send notice of the modification to the court. Any material
174 modifications of the treatment plan which are contested by the
175 patient or the patient's guardian advocate, if appointed, must
176 be approved or disapproved by the court consistent with
177 subsection (2).

178 Section 4. Paragraph (b) of subsection (6) and paragraph
 179 (d) of subsection (7) of section 394.467, Florida Statutes, are
 180 amended to read:

181 394.467 Involuntary inpatient placement.—

182 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

183 (b) If the court concludes that the patient meets the
 184 criteria for involuntary inpatient placement, it shall order
 185 that the patient be transferred to a treatment facility or, if
 186 the patient is at a treatment facility, that the patient be
 187 retained there or be treated at any other appropriate receiving
 188 or treatment facility, or that the patient receive services from
 189 a receiving or treatment facility, on an involuntary basis for
 190 up to 90 days or, if the order is for treatment at a state
 191 treatment facility, for ~~a period of~~ up to 6 months. The order
 192 shall specify the nature and extent of the patient's mental
 193 illness. The facility shall discharge a patient any time the
 194 patient no longer meets the criteria for involuntary inpatient
 195 placement, unless the patient has transferred to voluntary
 196 status.

197 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
 198 PLACEMENT.—

199 (d) If at a hearing it is shown that the patient continues
 200 to meet the criteria for involuntary inpatient placement, the
 201 administrative law judge shall sign the order for continued
 202 involuntary inpatient placement for up to 90 days or, if the
 203 order is for treatment at a state treatment facility, for up to

204 ~~a period not to exceed~~ 6 months. The same procedure shall be
205 repeated before ~~prior to~~ the expiration of each additional
206 period the patient is retained.

207 Section 5. Subsections (4) through (9) of section 397.305,
208 Florida Statutes, are renumbered as subsections (7) through (12),
209 respectively, and new subsections (4), (5), and (6) are added to
210 that section to read:

211 397.305 Legislative findings, intent, and purpose.—

212 (4) It is the intent of the Legislature that licensed,
213 qualified health professionals be authorized to practice to the
214 full extent of their education and training in the performance
215 of professional functions necessary to carry out the intent of
216 this chapter.

217 (5) It is the intent of the Legislature that state policy
218 and funding decisions be driven by data concerning the
219 populations served and the effectiveness of services provided.

220 (6) It is the intent of the Legislature to establish
221 expectations that services provided to persons in this state use
222 the coordination-of-care principles characteristic of recovery-
223 oriented services and include social support services, such as
224 housing support, life skills and vocational training, and
225 employment assistance, necessary for persons with mental health
226 and substance use disorders to live successfully in their
227 communities.

228 Section 6. Section 397.675, Florida Statutes, is amended
229 to read:

230 397.675 Criteria for involuntary admissions, including
231 protective custody, emergency admission, and other involuntary
232 assessment, involuntary treatment, and alternative involuntary
233 assessment for minors, for purposes of assessment and
234 stabilization, and for involuntary treatment.—A person meets the
235 criteria for involuntary admission if there is good faith reason
236 to believe the person is substance abuse impaired and, because
237 of this condition, has refused services or is unable to
238 determine whether services are necessary. The refusal of
239 services is insufficient evidence of an inability to determine
240 whether services are necessary unless, without care or treatment
241 such impairment:

242 (1) The person is likely to neglect or refuse care for
243 himself or herself to the extent that the neglect or refusal
244 poses a real and present threat of substantial harm to his or
245 her well-being;

246 (2) The person is at risk of the deterioration of his or
247 her physical or mental health which may not be avoided despite
248 assistance from willing family members, friends, or other
249 services; or

250 (3) There is a substantial likelihood that the person will
251 cause serious bodily harm to himself or herself or others, as
252 shown by the person's recent behavior. ~~Has lost the power of~~
253 self-control with respect to substance use; and either

254 ~~(2)(a) Has inflicted, or threatened or attempted to~~
 255 ~~inflict, or unless admitted is likely to inflict, physical harm~~
 256 ~~on himself or herself or another; or~~

257 ~~(b) Is in need of substance abuse services and, by reason~~
 258 ~~of substance abuse impairment, his or her judgment has been so~~
 259 ~~impaired that the person is incapable of appreciating his or her~~
 260 ~~need for such services and of making a rational decision in~~
 261 ~~regard thereto; however, mere refusal to receive such services~~
 262 ~~does not constitute evidence of lack of judgment with respect to~~
 263 ~~his or her need for such services.~~

264 Section 7. Section 397.679, Florida Statutes, is amended
 265 to read:

266 397.679 Emergency admission; circumstances justifying.—A
 267 person who meets the criteria for involuntary admission in s.
 268 397.675 may be admitted to a hospital or to a licensed
 269 detoxification facility or addictions receiving facility for
 270 emergency assessment and stabilization, or to a less intensive
 271 component of a licensed service provider for assessment only,
 272 upon receipt by the facility of the professional's ~~physician's~~
 273 certificate and the completion of an application for emergency
 274 admission.

275 Section 8. Subsection (1) of section 397.6791, Florida
 276 Statutes, is amended to read:

277 397.6791 Emergency admission; persons who may initiate.—
 278 The following persons may request an emergency admission:

279 (1) In the case of an adult, the certifying professional
 280 pursuant to s. 397.6793 ~~physician~~, the person's spouse or legal
 281 guardian, any relative of the person, or any other responsible
 282 adult who has personal knowledge of the person's substance abuse
 283 impairment.

284 Section 9. Section 397.6793, Florida Statutes, is amended
 285 to read:

286 397.6793 Professional's ~~Physician's~~ certificate for
 287 emergency admission.—

288 (1) A physician, clinical psychologist, physician
 289 assistant, psychiatric nurse, advanced registered nurse
 290 practitioner, mental health counselor, marriage and family
 291 therapist, master's level certified addiction professional for
 292 substance abuse services, or clinical social worker may execute
 293 a certificate stating that he or she has examined a person
 294 within the preceding 5 days and finds that the person appears to
 295 meet the criteria for emergency admission and stating the
 296 observations upon which that conclusion is based. The
 297 professional's ~~physician's~~ certificate must include the name of
 298 the person to be admitted, the relationship between the person
 299 and the professional executing the certificate ~~physician~~, the
 300 relationship between the applicant and the professional
 301 executing the certificate ~~physician~~, and any relationship
 302 between the professional executing the certificate ~~physician~~ and
 303 the licensed service provider, ~~and a statement that the person~~
 304 ~~has been examined and assessed within 5 days of the application~~

305 ~~date,~~ and must include factual allegations with respect to the
306 need for emergency admission, including the reason for the
307 professional's belief that the person:

308 (a) ~~The reason for the physician's belief that the person~~
309 Is substance abuse impaired; and

310 (b) Meets the criteria of s. 397.675(1), (2), or (3). ~~The~~
311 ~~reason for the physician's belief that because of such~~
312 ~~impairment the person has lost the power of self-control with~~
313 ~~respect to substance abuse; and either~~

314 (c)1. ~~The reason the physician believes that the person~~
315 ~~has inflicted or is likely to inflict physical harm on himself~~
316 ~~or herself or others unless admitted; or~~

317 2. ~~The reason the physician believes that the person's~~
318 ~~refusal to voluntarily receive care is based on judgment so~~
319 ~~impaired by reason of substance abuse that the person is~~
320 ~~incapable of appreciating his or her need for care and of making~~
321 ~~a rational decision regarding his or her need for care.~~

322 (2) The professional's ~~physician's~~ certificate must
323 recommend the least restrictive type of service that is
324 appropriate for the person. The certificate must be signed by
325 the professional ~~physician~~.

326 (3) A signed copy of the professional's ~~physician's~~
327 certificate shall accompany the person, and shall be made a part
328 of the person's clinical record, together with a signed copy of
329 the application. The application and professional's ~~physician's~~
330 certificate authorize the involuntary admission of the person

331 pursuant to, and subject to the provisions of, ss. 397.679-
 332 397.6797.

333 (4) The professional's ~~physician's~~ certificate must
 334 indicate whether the person requires transportation assistance
 335 for delivery for emergency admission and specify, pursuant to s.
 336 397.6795, the type of transportation assistance necessary.

337 Section 10. Section 397.6795, Florida Statutes, is amended
 338 to read:

339 397.6795 Transportation-assisted delivery of persons for
 340 emergency assessment.—An applicant for a person's emergency
 341 admission, or the person's spouse or guardian, a law enforcement
 342 officer, or a health officer may deliver a person named in the
 343 professional's ~~physician's~~ certificate for emergency admission
 344 to a hospital or a licensed detoxification facility or
 345 addictions receiving facility for emergency assessment and
 346 stabilization.

347 Section 11. Subsection (1) of section 397.681, Florida
 348 Statutes, is amended to read:

349 397.681 Involuntary petitions; general provisions; court
 350 jurisdiction and right to counsel.—

351 (1) JURISDICTION.—The courts have jurisdiction of
 352 involuntary assessment and stabilization petitions and
 353 involuntary treatment petitions for substance abuse impaired
 354 persons, ~~and~~ Such petitions must be filed with the clerk of the
 355 court in the county where the person is located, and a filing
 356 fee may not be charged. The chief judge may appoint a general or

357 special magistrate to preside over all or part of the
 358 proceedings. The alleged impaired person is named as the
 359 respondent.

360 Section 12. Subsection (1) of section 397.6811, Florida
 361 Statutes, is amended to read:

362 397.6811 Involuntary assessment and stabilization.—A
 363 person determined by the court to appear to meet the criteria
 364 for involuntary admission under s. 397.675 may be admitted for a
 365 period of 5 days to a hospital or to a licensed detoxification
 366 facility or addictions receiving facility, for involuntary
 367 assessment and stabilization or to a less restrictive component
 368 of a licensed service provider for assessment only upon entry of
 369 a court order or upon receipt by the licensed service provider
 370 of a petition. Involuntary assessment and stabilization may be
 371 initiated by the submission of a petition to the court.

372 (1) If the person upon whose behalf the petition is being
 373 filed is an adult, a petition for involuntary assessment and
 374 stabilization may be filed by the respondent's spouse or legal
 375 guardian, any relative, a private practitioner, the director of
 376 a licensed service provider or the director's designee, or an
 377 adult ~~any three adults~~ who has ~~have~~ personal knowledge of the
 378 respondent's substance abuse impairment.

379 Section 13. Subsection (4) is added to section 397.6818,
 380 Florida Statutes, to read:

381 397.6818 Court determination.—At the hearing initiated in
 382 accordance with s. 397.6811(1), the court shall hear all

383 relevant testimony. The respondent must be present unless the
384 court has reason to believe that his or her presence is likely
385 to be injurious to him or her, in which event the court shall
386 appoint a guardian advocate to represent the respondent. The
387 respondent has the right to examination by a court-appointed
388 qualified professional. After hearing all the evidence, the
389 court shall determine whether there is a reasonable basis to
390 believe the respondent meets the involuntary admission criteria
391 of s. 397.675.

392 (4) The order is valid only for the period specified in
393 the order or, if a period is not specified, for 7 days after the
394 order is signed.

395 Section 14. Section 397.6819, Florida Statutes, is amended
396 to read:

397 397.6819 Involuntary assessment and stabilization;
398 responsibility of licensed service provider.—A licensed service
399 provider may admit an individual for involuntary assessment and
400 stabilization ~~for a period not to exceed 5 days~~. The individual
401 must be assessed within 72 hours after admission ~~without~~
402 ~~unnecessary delay~~ by a qualified professional. If an assessment
403 is performed by a qualified professional who is not a physician,
404 the assessment must be reviewed by a physician before the end of
405 the assessment period. If the licensed physician determines that
406 the individual continues to meet the criteria for involuntary
407 assessment and stabilization, the individual may be held for up
408 to a total of 5 days, unless a petition for involuntary

409 treatment is initiated which authorizes the licensed service
410 provider to retain physical custody of the person pending
411 further order of the court pursuant to s. 397.6822.

412 Section 15. Section 397.6821, Florida Statutes, is
413 repealed.

414 Section 16. Section 397.6955, Florida Statutes, is amended
415 to read:

416 397.6955 Duties of court upon filing of petition for
417 involuntary treatment.—Upon the filing of a petition for the
418 involuntary treatment of a substance abuse impaired person with
419 the clerk of the court, the court shall immediately determine
420 whether the respondent is represented by an attorney or whether
421 the appointment of counsel for the respondent is appropriate.
422 The court shall schedule a hearing to be held on the petition
423 within 5 ~~10~~ days unless a continuance is granted. A copy of the
424 petition and notice of the hearing must be provided to the
425 respondent; the respondent's parent, guardian, or legal
426 custodian, in the case of a minor; the respondent's attorney, if
427 known; the petitioner; the respondent's spouse or guardian, if
428 applicable; and such other persons as the court may direct, and
429 have such petition and order personally delivered to the
430 respondent if he or she is a minor. The court shall also issue a
431 summons to the person whose admission is sought.

432 Section 17. Subsection (1) of section 397.697, Florida
433 Statutes, is amended to read:

434 397.697 Court determination; effect of court order for
435 involuntary substance abuse treatment.—

436 (1) When the court finds that the conditions for
437 involuntary substance abuse treatment have been proved by clear
438 and convincing evidence, it may order the respondent to undergo
439 involuntary treatment by a licensed service provider for a
440 period not to exceed 90 ~~60~~ days. If the court finds it
441 necessary, it may direct the sheriff to take the respondent into
442 custody and deliver him or her to the licensed service provider
443 specified in the court order, or to the nearest appropriate
444 licensed service provider, for involuntary treatment. When the
445 conditions justifying involuntary treatment no longer exist, the
446 individual must be released as provided in s. 397.6971. When the
447 conditions justifying involuntary treatment are expected to
448 exist after 90 ~~60~~ days of treatment, a renewal of the
449 involuntary treatment order may be requested pursuant to s.
450 397.6975 before ~~prior to~~ the end of the 90-day ~~60-day~~ period.

451 Section 18. Section 397.6971, Florida Statutes, is amended
452 to read:

453 397.6971 Early release from involuntary substance abuse
454 treatment.—

455 (1) At any time before ~~prior to~~ the end of the 90-day ~~60-~~
456 ~~day~~ involuntary treatment period, or before ~~prior to~~ the end of
457 any extension granted pursuant to s. 397.6975, an individual
458 admitted for involuntary treatment may be determined eligible

459 for discharge to the most appropriate referral or disposition
 460 for the individual when:

461 (a) The individual no longer meets the criteria specified
 462 in s. 397.675 for involuntary admission and has given his or her
 463 informed consent to be transferred to voluntary treatment
 464 status;

465 (b) If the individual was admitted on the grounds of
 466 likelihood of infliction of physical harm upon himself or
 467 herself or others, such likelihood no longer exists; ~~or~~

468 (c) If the individual was admitted on the grounds of need
 469 for assessment and stabilization or treatment, accompanied by
 470 inability to make a determination respecting such need, either:

- 471 1. Such inability no longer exists; or
- 472 2. It is evident that further treatment will not bring
 473 about further significant improvements in the individual's
 474 condition;

475 (d) The individual is no longer in need of services; or

476 (e) The director of the service provider determines that
 477 the individual is beyond the safe management capabilities of the
 478 provider.

479 (2) Whenever a qualified professional determines that an
 480 individual admitted for involuntary treatment is ready for early
 481 release for any of the reasons listed in subsection (1), the
 482 service provider shall immediately discharge the individual, and
 483 must notify all persons specified by the court in the original
 484 treatment order.

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485 Section 19. Section 397.6977, Florida Statutes, is amended
486 to read:

487 397.6977 Disposition of individual upon completion of
488 involuntary substance abuse treatment.—At the conclusion of the
489 90-day ~~60-day~~ period of court-ordered involuntary treatment, the
490 individual shall ~~is~~ automatically be discharged unless a motion
491 for renewal of the involuntary treatment order has been filed
492 with the court pursuant to s. 397.6975.

493 Section 20. Paragraph (a) of subsection (1) of section
494 397.6773, Florida Statutes, is amended to read:

495 397.6773 Dispositional alternatives after protective
496 custody.—

497 (1) An individual who is in protective custody must be
498 released by a qualified professional when:

499 (a) The individual no longer meets the involuntary
500 admission criteria in s. 397.675~~(1)~~;

501 Section 21. This act shall take effect July 1, 2016.