	LEGISLATIVE ACTION	
Senate		House
Comm: RCS	•	
04/16/2015	•	
	•	
	•	
	•	

The Committee on Appropriations (Garcia) recommended the following:

Senate Amendment (with title amendment)

3

1

2

5

6 7

8 9

10

Delete lines 3825 - 4392

4 and insert:

- (c) An adult qualifying for voluntary admission for substance abuse treatment under s. 394.4625 s. 397.601.
- (d) An adult meeting the criteria for involuntary admission for substance abuse impairment under s. 394.463 s. 397.675.
- Section 35. Effective July 1, 2016, paragraphs (a) and (c) of subsection (3) of section 394.495, Florida Statutes, are



amended to read:

11

12

13 14

15 16

17

18

19 20

21 22

23

24

2.5

26

27

28

29

30

31

32

33

34 35

36

37

38

39

394.495 Child and adolescent mental health system of care; programs and services.-

- (3) Assessments must be performed by:
- (a) A professional as defined in s. 394.455(6), (31), (34), (35), or (36) s. 394.455(2), (4), (21), (23), or (24);
- (c) A person who is under the direct supervision of a professional as defined in s. 394.455(6), (31), (34), (35), or (36) s. 394.455(2), (4), (21), (23), or (24) or a professional licensed under chapter 491.

The department shall adopt by rule statewide standards for mental health assessments, which must be based on current relevant professional and accreditation standards.

Section 36. Effective July 1, 2016, subsection (6) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.-

(6) A professional as defined in s. 394.455(6), (31), (34), (35), or (36) s. 394.455(2), (4), (21), (23), or (24) or a professional licensed under chapter 491 must be included among those persons developing the services plan.

Section 37. Effective July 1, 2016, subsection (2) of section 394.499, Florida Statutes, is amended to read:

394.499 Integrated children's crisis stabilization unit/juvenile addictions receiving facility services.-

- (2) Children eligible to receive integrated children's crisis stabilization unit/juvenile addictions receiving facility services include:
 - (a) A person under 18 years of age for whom voluntary

41

42

43

44 45

46 47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

6.3 64

65

66

67

68



application is made by his or her guardian, if such person is found to show evidence of mental illness and to be suitable for treatment pursuant to s. 394.4625. A person under 18 years of age may be admitted for integrated facility services only after a hearing to verify that the consent to admission is voluntary.

- (b) A person under 18 years of age who may be taken to a receiving facility for involuntary examination, if there is reason to believe that he or she is mentally ill and because of his or her mental illness, pursuant to s. 394.463:
- 1. Has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; or
- 2. Is unable to determine for himself or herself whether examination is necessary; and
- a. Without care or treatment is likely to suffer from neglect or refuse to care for himself or herself; 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
- b. There is a substantial likelihood that without care or treatment he or she will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.
- (c) A person under 18 years of age who wishes to enter treatment for substance abuse and applies to a service provider for voluntary admission, pursuant to s. 394.4625(1)(a) s. 397.601.
- (d) A person under 18 years of age who meets the criteria for involuntary admission because there is good faith reason to

70

71

72

73

74

75

76

77 78

79

80

81

82

83

84

85

86

87

88 89

90

91

92 93

94 95

96

97



believe the person is substance abuse impaired pursuant 397.675 and, because of such impairment:

1. Has lost the power of self-control with respect to substance use; and

2.a. Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or herself or another; or

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

(d) (e) A person under 18 years of age who meets the criteria for examination or admission under paragraph (b) or paragraph (d) and has a coexisting mental health and substance abuse disorder.

Section 38. Effective July 1, 2016, subsection (18) of section 394.67, Florida Statutes, is amended to read:

394.67 Definitions.—As used in this part, the term:

(18) "Person who is experiencing an acute substance abuse crisis" means a child, adolescent, or adult who is experiencing a medical or emotional crisis because of the use of alcoholic beverages or any psychoactive or mood-altering substance. The term includes an individual who meets the criteria for involuntary admission specified in s. 394.463 s. 397.675.

Section 39. Effective July 1, 2016, subsection (2) of section 394.674, Florida Statutes, is amended to read:

99

100 101

102

103

104

105

106 107

108

109

110

111

112

113 114

115

116

117

118

119

120

121

122

123

124

125

126



394.674 Eligibility for publicly funded substance abuse and mental health services; fee collection requirements.-

(2) Crisis services, as defined in s. 394.67, must, within the limitations of available state and local matching resources, be available to each person who is eligible for services under subsection (1), regardless of the person's ability to pay for such services. A person who is experiencing a mental health crisis and who does not meet the criteria for involuntary examination under s. 394.463(1), or a person who is experiencing a substance abuse crisis and who does not meet the involuntary admission criteria in s. 394.463 s. 397.675, must contribute to the cost of his or her care and treatment pursuant to the sliding fee scale developed under subsection (4), unless charging a fee is contraindicated because of the crisis situation.

Section 40. Effective July 1, 2016, subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.-

(6) For purposes of this section, the terms "detoxification services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(18)(a)4., 397.311(18)(a)1., and 394.455(27), respectively.

Section 41. Effective July 1, 2016, subsection (11) and paragraph (a) of subsection (18) of section 397.311, Florida Statutes, are amended to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(11) "Habitual abuser" means a person who is brought to the

128

129

130

131 132

133 134

135

136

137

138

139

140

141

142

143

144

145

146

147

148 149

150

151

152

153

154

155



attention of law enforcement for being substance impaired, who meets the criteria for involuntary admission in s.394.463 s. 397.675, and who has been taken into custody for such impairment three or more times during the preceding 12 months.

- (18) Licensed service components include a comprehensive continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services, including the following services:
- (a) "Clinical treatment" means a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle. As defined by rule, "clinical treatment services" include, but are not limited to, the following licensable service components:
- 1. "Addictions receiving facility" is a secure, acute care facility that provides, at a minimum, detoxification and stabilization services and; is operated 24 hours per day, 7 days per week; and is designated by the department to serve individuals found to be substance use impaired as described in s. 394.463 s. 397.675 who meet the placement criteria for thiscomponent.
- 2. "Day or night treatment" is a service provided in a nonresidential environment, with a structured schedule of treatment and rehabilitative services.
- 3. "Day or night treatment with community housing" means a program intended for individuals who can benefit from living independently in peer community housing while participating in treatment services for a minimum of 5 hours a day for a minimum of 25 hours per week.

157

158 159

160

161

162 163

164

165

166

167

168

169

170

171

172

173

174 175

176

177

178

179

180

181

182

183

184



- 4. "Detoxification" is a service involving subacute care that is provided on an inpatient or an outpatient basis to assist individuals to withdraw from the physiological and psychological effects of substance abuse and who meet the placement criteria for this component.
- 5. "Intensive inpatient treatment" includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24-hours-per-day 24 hours per day, 7-days-perweek 7 days per week, in a highly structured, live-in environment.
- 6. "Intensive outpatient treatment" is a service that provides individual or group counseling in a more structured environment, is of higher intensity and duration than outpatient treatment, and is provided to individuals who meet the placement criteria for this component.
- 7. "Medication-assisted treatment for opiate addiction" is a service that uses methadone or other medication as authorized by state and federal law, in combination with medical, rehabilitative, and counseling services in the treatment of individuals who are dependent on opioid drugs.
- 8. "Outpatient treatment" is a service that provides individual, group, or family counseling by appointment during scheduled operating hours for individuals who meet the placement criteria for this component.
- 9. "Residential treatment" is a service provided in a structured live-in environment within a nonhospital setting on a 24-hours-per-day, 7-days-per-week basis, and is intended for individuals who meet the placement criteria for this component.

186

187

188

189 190

191

192

193

194

195

196

197

198

199

200

201

202

203

204

205

206 207

208 209

210

211

212

213



Section 42. Effective July 1, 2016, paragraph (b) of subsection (2) of section 397.702, Florida Statutes, is amended to read:

- 397.702 Authorization of local ordinances for treatment of habitual abusers in licensed secure facilities .-
- (2) Ordinances for the treatment of habitual abusers must provide:
- (b) That when seeking treatment of a habitual abuser, the county or municipality, through an officer or agent specified in the ordinance, must file with the court a petition which alleges the following information about the alleged habitual abuser (the respondent):
 - 1. The name, address, age, and gender of the respondent.
- 2. The name of any spouse, adult child, other relative, or guardian of the respondent, if known to the petitioner, and the efforts, if any, by the petitioner, if any, to ascertain this information.
- 3. The name of the petitioner, the name of the person who has physical custody of the respondent, and the current location of the respondent.
- 4. That the respondent has been taken into custody for impairment in a public place, or has been arrested for an offense committed while impaired, three or more times during the preceding 12 months.
- 5. Specific facts indicating that the respondent meets the criteria for involuntary admission in s. 394.463 s. 397.675.
- 6. Whether the respondent was advised of his or her right to be represented by counsel and to request that the court appoint an attorney if he or she is unable to afford one, and

215

216

217 218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237 238

239

240

241

242



whether the respondent indicated to petitioner his or her desire to have an attorney appointed.

Section 43. Effective July 1, 2016, paragraph (a) of subsection (1) of section 397.94, Florida Statutes, is amended to read:

- 397.94 Children's substance abuse services; information and referral network.-
- (1) The substate entity shall determine the most costeffective method for delivering this service and may select a new provider or utilize an existing provider or providers with a record of success in providing information and referral services.
- (a) The plan must provide assurances that the information and referral network will include a resource directory that contains information regarding the children's substance abuse services available, including, but not limited to:
- 1. Public and private resources by service component, including resources for involuntary admissions under s. 394.463 s. 397.675.
- 2. Hours of operation and hours during which services are provided.
 - 3. Ages of persons served.
 - 4. Description of services.
 - 5. Eligibility requirements.
 - 6. Fee schedules.
- Section 44. Effective July 1, 2016, paragraph (b) of subsection (1) of section 409.972, Florida Statutes, is amended to read:
 - 409.972 Mandatory and voluntary enrollment.

244 245

246

247

248

249 250

251 252

253

254 255

256

257

258

259

260

261

262

263

264

265

266 267

268

269

270

271



- (1) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:
- (b) Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice or mental health treatment facilities as defined by s. 394.455(47) s. 394.455(32).

Section 45. Effective July 1, 2016, subsection (7) of section 744.704, Florida Statutes, is amended to read:

744.704 Powers and duties.-

(7) A public guardian shall not commit a ward to a mental health treatment facility, as defined in s. 394.455(47) s. 394.455(32), without an involuntary placement proceeding as provided by law.

Section 46. Effective July 1, 2016, paragraph (a) of subsection (2) of section 790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.-

- (2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:
- (a) Review any records available to determine if the potential buyer or transferee:
- 1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;
- 2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm;
 - 3. Has had adjudication of guilt withheld or imposition of

273

274 275

276

277

278

279

280

281

282

283

284

285

286

287

288

289 290

291

292

293 294

295

296

297

298

299

300



sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred; or

- 4. Has been adjudicated mentally defective or has been committed to a mental institution by a court or as provided in sub-sub-subparagraph b.(II), and as a result is prohibited by state or federal law from purchasing a firearm.
- a. As used in this subparagraph, "adjudicated mentally defective" means a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. The phrase includes a judicial finding of incapacity under s. 744.331(6)(a), an acquittal by reason of insanity of a person charged with a criminal offense, and a judicial finding that a criminal defendant is not competent to stand trial.
- b. As used in this subparagraph, "committed to a mental institution" means:
- (I) Involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement as defined in s. 394.467, involuntary outpatient placement as defined in s. 394.4655, involuntary assessment and stabilization under s. 394.463(2)(g) s. 397.6818, or and involuntary substance abuse treatment under s. 394.463 s. 397.6957, but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial



review by the physician or a voluntary admission to a mental institution; or

- (II) Notwithstanding sub-sub-subparagraph (I), voluntary admission to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, where each of the following conditions have been met:
- (A) An examining physician found that the person is an imminent danger to himself or herself or others.
- (B) The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed under s. 394.463(2)(g) s. 394.463(2)(i)4., or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition.
- (C) Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearms license under s. 790.06 and the person acknowledged such notice in writing, in substantially the following form:

323 324

325

326

327

328

329

301

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

317

318

319 320

321

322

"I understand that the doctor who examined me believes I am a danger to myself or to others. I understand that if I do not agree to voluntary treatment, a petition will be filed in court to require me to receive involuntary treatment. I understand that if that petition is filed, I have the right to contest it.



In the event a petition has been filed, I understand that I can subsequently agree to voluntary treatment prior to a court hearing. I understand that by agreeing to voluntary treatment in either of these situations, I may be prohibited from buying firearms and from applying for or retaining a concealed weapons or firearms license until I apply for and receive relief from that restriction under Florida law."

337 338

339

340 341

342

343

344

345

346

347

348

349

350

351

352

353

354

355

356

357

358

330

331

332 333

334

335

336

- (D) A judge or a magistrate has, pursuant to sub-subsubparagraph c.(II), reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.
- c. In order to check for these conditions, the department shall compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.
- (I) Except as provided in sub-sub-subparagraph (II), clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment. Reports shall be submitted in an automated format. The reports must, at a minimum, include the name, along with any known alias or former name, the sex, and the date of birth of the subject.
- (II) For persons committed to a mental institution pursuant to sub-sub-subparagraph b.(II), within 24 hours after the person's agreement to voluntary admission, a record of the finding, certification, notice, and written acknowledgment must

360

361

362

363

364

365

366

367

368

369

370

371

372

373

374

375

376

377

378

379

380

381

382

383

384

385

386

387



be filed by the administrator of the receiving or treatment facility, as defined in s. 394.455, with the clerk of the court for the county in which the involuntary examination under s. 394.463 occurred. No fee shall be charged for the filing under this sub-sub-subparagraph. The clerk must present the records to a judge or magistrate within 24 hours after receipt of the records. A judge or magistrate is required and has the lawful authority to review the records ex parte and, if the judge or magistrate determines that the record supports the classifying of the person as an imminent danger to himself or herself or others, to order that the record be submitted to the department. If a judge or magistrate orders the submittal of the record to the department, the record must be submitted to the department within 24 hours.

d. A person who has been adjudicated mentally defective or committed to a mental institution, as those terms are defined in this paragraph, may petition the circuit court that made the adjudication or commitment, or the court that ordered that the record be submitted to the department pursuant to sub-subsubparagraph c.(II), for relief from the firearm disabilities imposed by such adjudication or commitment. A copy of the petition shall be served on the state attorney for the county in which the person was adjudicated or committed. The state attorney may object to and present evidence relevant to the relief sought by the petition. The hearing on the petition may be open or closed as the petitioner may choose. The petitioner may present evidence and subpoena witnesses to appear at the hearing on the petition. The petitioner may confront and crossexamine witnesses called by the state attorney. A record of the

389

390 391

392

393

394

395

396

397

398

399

400

401

402

403

404

405

406

407

408

409 410

411

412

413

414

415

416



hearing shall be made by a certified court reporter or by courtapproved electronic means. The court shall make written findings of fact and conclusions of law on the issues before it and issue a final order. The court shall grant the relief requested in the petition if the court finds, based on the evidence presented with respect to the petitioner's reputation, the petitioner's mental health record and, if applicable, criminal history record, the circumstances surrounding the firearm disability, and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the final order denies relief, the petitioner may not petition again for relief from firearm disabilities until 1 year after the date of the final order. The petitioner may seek judicial review of a final order denying relief in the district court of appeal having jurisdiction over the court that issued the order. The review shall be conducted de novo. Relief from a firearm disability granted under this sub-subparagraph has no effect on the loss of civil rights, including firearm rights, for any reason other than the particular adjudication of mental defectiveness or commitment to a mental institution from which relief is granted.

e. Upon receipt of proper notice of relief from firearm disabilities granted under sub-subparagraph d., the department shall delete any mental health record of the person granted relief from the automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

418

419 420

421

422

423

424

425

426

427

428

429

430

431

432

433

434

435

436

437

438 439

440

441

442

443

444

445



f. The department is authorized to disclose data collected pursuant to this subparagraph to agencies of the Federal Government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer. The department is also authorized to disclose this data to the Department of Agriculture and Consumer Services for purposes of determining eligibility for issuance of a concealed weapons or concealed firearms license and for determining whether a basis exists for revoking or suspending a previously issued license pursuant to s. 790.06(10). When a potential buyer or transferee appeals a nonapproval based on these records, the clerks of court and mental institutions shall, upon request by the department, provide information to help determine whether the potential buyer or transferee is the same person as the subject of the record. Photographs and any other data that could confirm or negate identity must be made available to the department for such purposes, notwithstanding any other provision of state law to the contrary. Any such information that is made confidential or exempt from disclosure by law shall retain such confidential or exempt status when transferred to the department.

Section 47. Effective July 1, 2016, part IV of chapter 397, Florida Statutes, consisting of s. 397.601, Florida Statutes, is repealed.

Section 48. Effective July 1, 2016, part V of chapter 397, Florida Statutes, consisting of ss. 397.675-397.6977, Florida Statutes, is repealed.

Section 49. For the purpose of incorporating the amendment made by this act to section 394.4599, Florida Statutes, in a reference thereto, subsection (1) of section 394.4685, Florida



Statutes, is reenacted to read:

446

447

448

449

450

451

452

453

454

455

456

457

458

459 460

461

462

463

464

465

466

467

468

469 470

471

472

473

474

394.4685 Transfer of patients among facilities.-

- (1) TRANSFER BETWEEN PUBLIC FACILITIES.-
- (a) A patient who has been admitted to a public receiving facility, or the family member, guardian, or guardian advocate of such patient, may request the transfer of the patient to another public receiving facility. A patient who has been admitted to a public treatment facility, or the family member, quardian, or quardian advocate of such patient, may request the transfer of the patient to another public treatment facility. Depending on the medical treatment or mental health treatment needs of the patient and the availability of appropriate facility resources, the patient may be transferred at the discretion of the department. If the department approves the transfer of an involuntary patient, notice according to the provisions of s. 394.4599 shall be given prior to the transfer by the transferring facility. The department shall respond to the request for transfer within 2 working days after receipt of the request by the facility administrator.
- (b) When required by the medical treatment or mental health treatment needs of the patient or the efficient utilization of a public receiving or public treatment facility, a patient may be transferred from one receiving facility to another, or one treatment facility to another, at the department's discretion, or, with the express and informed consent of the patient or the patient's quardian or quardian advocate, to a facility in another state. Notice according to the provisions of s. 394.4599 shall be given prior to the transfer by the transferring facility. If prior notice is not possible, notice of the



475 transfer shall be provided as soon as practicable after the 476 transfer. 477 Section 50. For the purpose of incorporating the amendment 478 made by this act to section 394.4599, Florida Statutes, in a 479 reference thereto, subsection (2) of section 394.469, Florida Statutes, is reenacted to read: 480 481 394.469 Discharge of involuntary patients.-482 (2) NOTICE.—Notice of discharge or transfer of a patient 483 shall be given as provided in s. 394.4599. 484 Section 51. Except as otherwise expressly provided in this 485 act, this act shall take effect July 1, 2015. 486 487 ====== T I T L E A M E N D M E N T ===== 488 And the title is amended as follows: 489 Delete lines 275 - 289 490 and insert: 394.496, 394.499, 394.67, 394.674, 394.9085, 397.311, 491 397.702, 397.94, 409.972, 744.704, and 790.065, F.S.; 492 493 conforming cross-references; repealing ss. 397.601, 494 397.675, 397.6751, 397.6752, 397.6758, 397.6759, 495 397.677, 397.6771, 397.6772, 397.6773, 397.6774, 397.6775, 397.679, 397.6791, 397.6793, 397.6795, 496 397.6797, 397.6798, 397.6799, 397.681, 397.6811, 497 397.6814, 397.6815, 397.6818, 397.6819, 397.6821, 498 499 397.6822, 397.693, 397.695, 397.6951, 397.6955, 500 397.6957, 397.697, 397.6971, 397.6975, and 397.6977, 501 F.S.; reenacting ss. 394.4685(1), and 394.469(2), 502 F.S., to incorporate the amendment made to s.

394.4599, F.S., in references thereto; providing

503

504 effective dates.