

By Senator Campbell

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1 A bill to be entitled
 2 An act relating to involuntary examinations under the
 3 Baker Act; amending s. 394.455, F.S.; defining terms;
 4 amending s. 394.463, F.S.; authorizing physician
 5 assistants and advanced registered nurse practitioners
 6 to execute a certificate under certain conditions
 7 stating that he or she has examined a person and finds
 8 the person appears to meet the criteria for
 9 involuntary examination; amending ss. 39.407, 394.495,
 10 394.496, 394.9085, 409.972, and 744.2007, F.S.;
 11 conforming cross-references; providing an effective
 12 date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

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 16 Section 1. Present subsections (5) through (48) of section
 17 394.455, Florida Statutes, are redesignated as subsections (6)
 18 through (49), respectively, a new subsection (5) is added to
 19 that section, and present subsection (33) is amended, to read:

20 394.455 Definitions.—As used in this part, the term:

21 (5) "Advanced registered nurse practitioner" means a person
 22 licensed in this state to practice professional nursing and
 23 certified in advanced or specialized nursing practice, as
 24 defined in s. 464.003.

25 ~~(34) (33) "Physician assistant" has the same meaning as~~
 26 ~~defined in s. 458.347(2)(e) means a person licensed under~~
 27 ~~chapter 458 or chapter 459 who has experience in the diagnosis~~
 28 ~~and treatment of mental disorders.~~

29 Section 2. Paragraph (a) of subsection (2) of section
 30 394.463, Florida Statutes, is amended to read:

31 394.463 Involuntary examination.—

32 (2) INVOLUNTARY EXAMINATION.—

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33 (a) An involuntary examination may be initiated by any one
34 of the following means:

35 1. A circuit or county court may enter an ex parte order
36 stating that a person appears to meet the criteria for
37 involuntary examination and specifying the findings on which
38 that conclusion is based. The ex parte order for involuntary
39 examination must be based on written or oral sworn testimony
40 that includes specific facts that support the findings. If other
41 less restrictive means are not available, such as voluntary
42 appearance for outpatient evaluation, a law enforcement officer,
43 or other designated agent of the court, shall take the person
44 into custody and deliver him or her to an appropriate, or the
45 nearest, facility within the designated receiving system
46 pursuant to s. 394.462 for involuntary examination. The order of
47 the court shall be made a part of the patient's clinical record.
48 A fee may not be charged for the filing of an order under this
49 subsection. A facility accepting the patient based on this order
50 must send a copy of the order to the department the next working
51 day. The order may be submitted electronically through existing
52 data systems, if available. The order shall be valid only until
53 the person is delivered to the facility or for the period
54 specified in the order itself, whichever comes first. If no time
55 limit is specified in the order, the order shall be valid for 7
56 days after the date that the order was signed.

57 2. A law enforcement officer shall take a person who
58 appears to meet the criteria for involuntary examination into
59 custody and deliver the person or have him or her delivered to
60 an appropriate, or the nearest, facility within the designated
61 receiving system pursuant to s. 394.462 for examination. The

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62 officer shall execute a written report detailing the
63 circumstances under which the person was taken into custody,
64 which must be made a part of the patient's clinical record. Any
65 facility accepting the patient based on this report must send a
66 copy of the report to the department the next working day.

67 3. A physician, physician assistant, clinical psychologist,
68 psychiatric nurse, mental health counselor, marriage and family
69 therapist, ~~or~~ clinical social worker, or an advanced registered
70 nurse practitioner may execute a certificate stating that he or
71 she has examined a person within the preceding 48 hours and
72 finds that the person appears to meet the criteria for
73 involuntary examination and stating the observations upon which
74 that conclusion is based. If other less restrictive means, such
75 as voluntary appearance for outpatient evaluation, are not
76 available, a law enforcement officer shall take into custody the
77 person named in the certificate and deliver him or her to the
78 appropriate, or nearest, facility within the designated
79 receiving system pursuant to s. 394.462 for involuntary
80 examination. The law enforcement officer shall execute a written
81 report detailing the circumstances under which the person was
82 taken into custody. The report and certificate shall be made a
83 part of the patient's clinical record. Any facility accepting
84 the patient based on this certificate must send a copy of the
85 certificate to the department the next working day. The document
86 may be submitted electronically through existing data systems,
87 if applicable.

88 Section 3. Paragraph (a) of subsection (3) of section
89 39.407, Florida Statutes, is amended to read:

90 39.407 Medical, psychiatric, and psychological examination

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91 and treatment of child; physical, mental, or substance abuse
92 examination of person with or requesting child custody.—

93 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
94 or paragraph (e), before the department provides psychotropic
95 medications to a child in its custody, the prescribing physician
96 shall attempt to obtain express and informed consent, as defined
97 in s. 394.455(16) ~~s. 394.455(15)~~ and as described in s.
98 394.459(3) (a), from the child's parent or legal guardian. The
99 department must take steps necessary to facilitate the inclusion
100 of the parent in the child's consultation with the physician.
101 However, if the parental rights of the parent have been
102 terminated, the parent's location or identity is unknown or
103 cannot reasonably be ascertained, or the parent declines to give
104 express and informed consent, the department may, after
105 consultation with the prescribing physician, seek court
106 authorization to provide the psychotropic medications to the
107 child. Unless parental rights have been terminated and if it is
108 possible to do so, the department shall continue to involve the
109 parent in the decisionmaking process regarding the provision of
110 psychotropic medications. If, at any time, a parent whose
111 parental rights have not been terminated provides express and
112 informed consent to the provision of a psychotropic medication,
113 the requirements of this section that the department seek court
114 authorization do not apply to that medication until such time as
115 the parent no longer consents.

116 2. Any time the department seeks a medical evaluation to
117 determine the need to initiate or continue a psychotropic
118 medication for a child, the department must provide to the
119 evaluating physician all pertinent medical information known to

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120 the department concerning that child.

121 Section 4. Paragraphs (a) and (c) of subsection (3) of
122 section 394.495, Florida Statutes, are amended to read:

123 394.495 Child and adolescent mental health system of care;
124 programs and services.—

125 (3) Assessments must be performed by:

126 (a) A professional as defined in s. 394.455(6), (8), (33),
127 (36), or (37) ~~s. 394.455(5), (7), (32), (35), or (36);~~

128 (c) A person who is under the direct supervision of a
129 qualified professional as defined in s. 394.455(6), (8), (33),
130 (36), or (37) ~~s. 394.455(5), (7), (32), (35), or (36)~~ or a
131 professional licensed under chapter 491.

132 Section 5. Subsection (5) of section 394.496, Florida
133 Statutes, is amended to read:

134 394.496 Service planning.—

135 (5) A professional as defined in s. 394.455(6), (8), (33),
136 (36), or (37) ~~s. 394.455(5), (7), (32), (35), or (36)~~ or a
137 professional licensed under chapter 491 must be included among
138 those persons developing the services plan.

139 Section 6. Subsection (6) of section 394.9085, Florida
140 Statutes, is amended to read:

141 394.9085 Behavioral provider liability.—

142 (6) For purposes of this section, the terms "detoxification
143 services," "addictions receiving facility," and "receiving
144 facility" have the same meanings as those provided in ss.
145 397.311(25)(a)4., 397.311(25)(a)1., and 394.455(40) ~~394.455(39),~~
146 respectively.

147 Section 7. Paragraph (b) of subsection (1) of section
148 409.972, Florida Statutes, is amended to read:

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149 409.972 Mandatory and voluntary enrollment.—

150 (1) The following Medicaid-eligible persons are exempt from
151 mandatory managed care enrollment required by s. 409.965, and
152 may voluntarily choose to participate in the managed medical
153 assistance program:

154 (b) Medicaid recipients residing in residential commitment
155 facilities operated through the Department of Juvenile Justice
156 or a treatment facility as defined in s. 394.455(48) ~~s.~~
157 ~~394.455(47)~~.

158 Section 8. Subsection (7) of section 744.2007, Florida
159 Statutes, is amended to read:

160 744.2007 Powers and duties.—

161 (7) A public guardian may not commit a ward to a treatment
162 facility, as defined in s. 394.455(48) ~~s. 394.455(47)~~, without
163 an involuntary placement proceeding as provided by law.

164 Section 9. This act shall take effect July 1, 2017.