

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.

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 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
 22 person licensed in this state to practice professional nursing
 23 and 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.—

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
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
68 psychologist, psychiatric nurse, mental health counselor,
69 marriage and family therapist, ~~or~~ clinical social worker, or an
70 advanced registered nurse practitioner may execute a certificate
71 stating that he or she has examined a person within the
72 preceding 48 hours and finds that the person appears to meet the
73 criteria for involuntary examination and stating the
74 observations upon which that conclusion is based. If other less
75 restrictive means, such as voluntary appearance for outpatient

76 | evaluation, are not available, a law enforcement officer shall
77 | take into custody the person named in the certificate and
78 | deliver him or her to the appropriate, or nearest, facility
79 | within the designated receiving system pursuant to s. 394.462
80 | for involuntary examination. The law enforcement officer shall
81 | execute a written report detailing the circumstances under which
82 | the person was taken into custody. The report and certificate
83 | shall be made a part of the patient's clinical record. Any
84 | facility accepting the patient based on this certificate must
85 | send a copy of the certificate to the department the next
86 | working day. The document may be submitted electronically
87 | through existing data systems, 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
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
94 | (b)1. or paragraph (e), before the department provides
95 | psychotropic medications to a child in its custody, the
96 | prescribing physician shall attempt to obtain express and
97 | informed consent, as defined in s. 394.455(16) ~~s. 394.455(15)~~
98 | and as described in s. 394.459(3) (a), from the child's parent or
99 | legal guardian. The department must take steps necessary to
100 | facilitate the inclusion of the parent in the child's

101 consultation with the physician. However, if the parental rights
102 of the parent have been terminated, the parent's location or
103 identity is unknown or cannot reasonably be ascertained, or the
104 parent declines to give express and informed consent, the
105 department may, after consultation with the prescribing
106 physician, seek court authorization to provide the psychotropic
107 medications to the child. Unless parental rights have been
108 terminated and if it is possible to do so, the department shall
109 continue to involve the parent in the decisionmaking process
110 regarding the provision of psychotropic medications. If, at any
111 time, a parent whose parental rights have not been terminated
112 provides express and informed consent to the provision of a
113 psychotropic medication, the requirements of this section that
114 the department seek court authorization do not apply to that
115 medication until such time as 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
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
 143 "detoxification services," "addictions receiving facility," and
 144 "receiving facility" have the same meanings as those provided in
 145 ss. 397.311(25)(a)4., 397.311(25)(a)1., and 394.455(40)
 146 ~~394.455(39)~~, respectively.

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

149 409.972 Mandatory and voluntary enrollment.—

150 (1) The following Medicaid-eligible persons are exempt

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151 from mandatory managed care enrollment required by s. 409.965,
152 and 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.