

HB 763

2016

1 A bill to be entitled

2 An act relating to involuntary commitment under the  
3 Baker Act; amending s. 394.463, F.S.; requiring  
4 evidence of Alzheimer's disease or a dementia-related  
5 disorder to be indicated in a court order for  
6 involuntary examination or in a law enforcement  
7 officer's report; providing for temporary placement in  
8 a secure area within the receiving facility designated  
9 for persons with Alzheimer's disease or a dementia-  
10 related disorder; limiting the timeframe for  
11 examination of persons with Alzheimer's disease or a  
12 dementia-related disorder; amending s. 394.4655, F.S.;  
13 providing for temporary placement in a secure area  
14 within the receiving facility designated for persons  
15 with Alzheimer's disease or a dementia-related  
16 disorder; limiting the timeframe for examination of  
17 persons with Alzheimer's disease or a dementia-related  
18 disorder; requiring evidence of Alzheimer's disease or  
19 a dementia-related disorder to be indicated on an  
20 involuntary outpatient placement certificate;  
21 providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Paragraphs (a), (f), (g), and (i) of subsection  
26 (2) of section 394.463, Florida Statutes, are amended to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 394.463 Involuntary examination.—

28 (2) INVOLUNTARY EXAMINATION.—

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

31 1. A court may enter an ex parte order stating that a  
32 person appears to meet the criteria for involuntary examination,  
33 giving the findings on which that conclusion is based. If a  
34 person exhibits signs of Alzheimer's disease or a dementia-  
35 related disorder, this condition must be indicated in the ex  
36 parte order for involuntary examination. The ex parte order for  
37 involuntary examination must be based on sworn testimony,  
38 written or oral. If other less restrictive means are not  
39 available, such as voluntary appearance for outpatient  
40 evaluation, a law enforcement officer, or other designated agent  
41 of the court, shall take the person into custody and deliver him  
42 or her to the nearest receiving facility for involuntary  
43 examination. If the person exhibits signs of Alzheimer's disease  
44 or a dementia-related disorder, the person shall be temporarily  
45 placed in a secure area within the receiving facility designated  
46 for persons with Alzheimer's disease or a dementia-related  
47 disorder where the person is permitted to interact with a family  
48 member or caregiver. The order of the court shall be made a part  
49 of the patient's clinical record. No fee shall be charged for  
50 the filing of an order under this subsection. Any receiving  
51 facility accepting the patient based on this order must send a  
52 copy of the order to the Agency for Health Care Administration

53 on the next working day. The order shall be valid only until  
54 executed or, if not executed, for the period specified in the  
55 order itself. If no time limit is specified in the order, the  
56 order shall be valid for 7 days after the date that the order  
57 was signed.

58 2. A law enforcement officer shall take a person who  
59 appears to meet the criteria for involuntary examination into  
60 custody and deliver the person or have him or her delivered to  
61 the nearest receiving facility for examination. The officer  
62 shall execute a written report detailing the circumstances under  
63 which the person was taken into custody, and the report shall be  
64 made a part of the patient's clinical record. If a person  
65 exhibits signs of Alzheimer's disease or a dementia-related  
66 disorder, this condition must be noted in the report. Any  
67 receiving facility accepting the patient based on this report  
68 must send a copy of the report to the Agency for Health Care  
69 Administration on the next working day.

70 3. A physician, clinical psychologist, psychiatric nurse,  
71 mental health counselor, marriage and family therapist, or  
72 clinical social worker may execute a certificate stating that he  
73 or she has examined a person within the preceding 48 hours, or  
74 in the case of a person whose symptoms indicate that he or she  
75 may have Alzheimer's disease or a dementia-related disorder,  
76 within the preceding 8 hours, and finds that the person appears  
77 to meet the criteria for involuntary examination and stating the  
78 observations upon which that conclusion is based. If other less

79 restrictive means are not available, such as voluntary  
80 appearance for outpatient evaluation, a law enforcement officer  
81 shall take the person named in the certificate into custody and  
82 deliver him or her to the nearest receiving facility for  
83 involuntary examination. The law enforcement officer shall  
84 execute a written report detailing the circumstances under which  
85 the person was taken into custody. If a person exhibits signs of  
86 Alzheimer's disease or a dementia-related disorder, this  
87 condition must be noted in the report. The report and  
88 certificate shall be made a part of the patient's clinical  
89 record. Any receiving facility accepting the patient based on  
90 this certificate must send a copy of the certificate to the  
91 Agency for Health Care Administration on the next working day.

92 (f) A patient shall be examined by a physician, a clinical  
93 psychologist, or a psychiatric nurse performing within the  
94 framework of an established protocol with a psychiatrist at a  
95 receiving facility without unnecessary delay and may, upon the  
96 order of a physician, be given emergency treatment if it is  
97 determined that such treatment is necessary for the safety of  
98 the patient or others. The patient may not be released by the  
99 receiving facility or its contractor without the documented  
100 approval of a psychiatrist or a clinical psychologist or, if the  
101 receiving facility is owned or operated by a hospital or health  
102 system, the release may also be approved by a psychiatric nurse  
103 performing within the framework of an established protocol with  
104 a psychiatrist or an attending emergency department physician

105 with experience in the diagnosis and treatment of mental and  
106 nervous disorders and after completion of an involuntary  
107 examination pursuant to this subsection. A psychiatric nurse may  
108 not approve the release of a patient if the involuntary  
109 examination was initiated by a psychiatrist unless the release  
110 is approved by the initiating psychiatrist. However, a patient  
111 may not be held in a receiving facility for involuntary  
112 examination longer than 72 hours, or in the case of a person  
113 whose symptoms indicate that he or she may have Alzheimer's  
114 disease or a dementia-related disorder, longer than 8 hours.

115 (g) A person for whom an involuntary examination has been  
116 initiated who is being evaluated or treated at a hospital for an  
117 emergency medical condition specified in s. 395.002 must be  
118 examined by a receiving facility within 72 hours, or in the case  
119 of a person whose symptoms indicate that he or she may have  
120 Alzheimer's disease or a dementia-related disorder, within 8  
121 hours. The examination ~~72-hour~~ period begins when the patient  
122 arrives at the hospital and ceases when the attending physician  
123 documents that the patient has an emergency medical condition.  
124 If the patient is examined at a hospital providing emergency  
125 medical services by a professional qualified to perform an  
126 involuntary examination and is found as a result of that  
127 examination not to meet the criteria for involuntary outpatient  
128 placement pursuant to s. 394.4655(1) or involuntary inpatient  
129 placement pursuant to s. 394.467(1), the patient may be offered  
130 voluntary placement, if appropriate, or released directly from

131 the hospital providing emergency medical services. The finding  
132 by the professional that the patient has been examined and does  
133 not meet the criteria for involuntary inpatient placement or  
134 involuntary outpatient placement must be entered into the  
135 patient's clinical record. Nothing in this paragraph is intended  
136 to prevent a hospital providing emergency medical services from  
137 appropriately transferring a patient to another hospital prior  
138 to stabilization, provided the requirements of s. 395.1041(3)(c)  
139 have been met.

140 (i) Within the ~~72-hour~~ examination period provided in  
141 paragraph (g) or, if the examination period ~~72 hours~~ ends on a  
142 weekend or holiday, no later than the next working day  
143 thereafter, one of the following actions must be taken, based on  
144 the individual needs of the patient:

145 1. The patient shall be released, unless he or she is  
146 charged with a crime, in which case the patient shall be  
147 returned to the custody of a law enforcement officer;

148 2. The patient shall be released, subject to the  
149 provisions of subparagraph 1., for voluntary outpatient  
150 treatment;

151 3. The patient, unless he or she is charged with a crime,  
152 shall be asked to give express and informed consent to placement  
153 as a voluntary patient, and, if such consent is given, the  
154 patient shall be admitted as a voluntary patient; or

155 4. A petition for involuntary placement shall be filed in  
156 the circuit court when outpatient or inpatient treatment is

157 deemed necessary. When inpatient treatment is deemed necessary,  
 158 the least restrictive treatment consistent with the optimum  
 159 improvement of the patient's condition shall be made available.  
 160 When a petition is to be filed for involuntary outpatient  
 161 placement, it shall be filed by one of the petitioners specified  
 162 in s. 394.4655(3)(a). A petition for involuntary inpatient  
 163 placement shall be filed by the facility administrator.

164 Section 2. Paragraph (a) of subsection (2) of section  
 165 394.4655, Florida Statutes, is amended to read:

166 394.4655 Involuntary outpatient placement.—

167 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

168 (a)1. A patient who is being recommended for involuntary  
 169 outpatient placement by the administrator of the receiving  
 170 facility where the patient has been examined may be retained by  
 171 the facility after adherence to the notice procedures provided  
 172 in s. 394.4599. If the patient exhibits signs of Alzheimer's  
 173 disease or a dementia-related disorder, the patient shall be  
 174 temporarily placed in a secure area within the receiving  
 175 facility designated for persons with Alzheimer's disease or a  
 176 dementia-related disorder where the patient is permitted to  
 177 interact with a family member or caregiver. The recommendation  
 178 for involuntary outpatient placement must be supported by the  
 179 opinion of a psychiatrist and the second opinion of a clinical  
 180 psychologist or another psychiatrist, both of whom have  
 181 personally examined the patient within the preceding 72 hours,  
 182 or in the case of a person whose symptoms indicate that he or

183 she may have Alzheimer's disease or a dementia-related disorder,  
184 within the preceding 8 hours, that the criteria for involuntary  
185 outpatient placement are met. However, in a county having a  
186 population of fewer than 50,000, if the administrator certifies  
187 that a psychiatrist or clinical psychologist is not available to  
188 provide the second opinion, the second opinion may be provided  
189 by a licensed physician who has postgraduate training and  
190 experience in diagnosis and treatment of mental and nervous  
191 disorders or by a psychiatric nurse. Any second opinion  
192 authorized in this subparagraph may be conducted through a face-  
193 to-face examination, in person or by electronic means. Such  
194 recommendation must be entered on an involuntary outpatient  
195 placement certificate that authorizes the receiving facility to  
196 retain the patient pending completion of a hearing. If a person  
197 exhibits signs of Alzheimer's disease or a dementia-related  
198 disorder, this condition must be noted on the involuntary  
199 outpatient placement certificate. The certificate shall be made  
200 a part of the patient's clinical record.

201 2. If the patient has been stabilized and no longer meets  
202 the criteria for involuntary examination pursuant to s.  
203 394.463(1), the patient must be released from the receiving  
204 facility while awaiting the hearing for involuntary outpatient  
205 placement. Before filing a petition for involuntary outpatient  
206 treatment, the administrator of a receiving facility or a  
207 designated department representative must identify the service  
208 provider that will have primary responsibility for service



209 provision under an order for involuntary outpatient placement,  
210 unless the person is otherwise participating in outpatient  
211 psychiatric treatment and is not in need of public financing for  
212 that treatment, in which case the individual, if eligible, may  
213 be ordered to involuntary treatment pursuant to the existing  
214 psychiatric treatment relationship.

215 3. The service provider shall prepare a written proposed  
216 treatment plan in consultation with the patient or the patient's  
217 guardian advocate, if appointed, for the court's consideration  
218 for inclusion in the involuntary outpatient placement order. The  
219 service provider shall also provide a copy of the proposed  
220 treatment plan to the patient and the administrator of the  
221 receiving facility. The treatment plan must specify the nature  
222 and extent of the patient's mental illness, address the  
223 reduction of symptoms that necessitate involuntary outpatient  
224 placement, and include measurable goals and objectives for the  
225 services and treatment that are provided to treat the person's  
226 mental illness and assist the person in living and functioning  
227 in the community or to prevent a relapse or deterioration.  
228 Service providers may select and supervise other individuals to  
229 implement specific aspects of the treatment plan. The services  
230 in the treatment plan must be deemed clinically appropriate by a  
231 physician, clinical psychologist, psychiatric nurse, mental  
232 health counselor, marriage and family therapist, or clinical  
233 social worker who consults with, or is employed or contracted  
234 by, the service provider. The service provider must certify to

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235 | the court in the proposed treatment plan whether sufficient  
236 | services for improvement and stabilization are currently  
237 | available and whether the service provider agrees to provide  
238 | those services. If the service provider certifies that the  
239 | services in the proposed treatment plan are not available, the  
240 | petitioner may not file the petition.

241 |       Section 3. This act shall take effect July 1, 2016.