

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee

3 Representative Gonzalez offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 59-60 and insert:

7 practicing under chapter 458 or chapter 459.

8 (c) The petition shall be verified and must:

9 1. State the name, age, and present address of the
10 commissioners and their relationship to the person who has an
11 intellectual disability or autism;

12 2. State the name, age, county of residence, and present
13 address of the person who has an intellectual disability or
14 autism;

Amendment No. 1

15 3. Allege that the commission believes that the person
16 needs involuntary residential services and specify the factual
17 information on which the belief is based;

18 4. Allege that the person lacks sufficient capacity to
19 give express and informed consent to a voluntary application for
20 services pursuant to s. 393.065, does not have a guardian or
21 guardian advocate to consent to services on his or her behalf,
22 and lacks the basic survival and self-care skills to provide for
23 the person's well-being, or the person is likely to physically
24 injure others if allowed to remain at liberty; and

25 5. State whether a secure or nonsecure ~~which~~ residential
26 setting is the least restrictive and most appropriate
27 alternative and specify the factual information on which the
28 belief is based.

29 (d) The petition must be filed in the circuit court of the
30 county in which the person who has the intellectual disability
31 or autism resides.

32 (3) NOTICE.—

33 (a) Notice of the filing of the petition shall be given to
34 the individual and his or her legal guardian. The notice shall
35 be given both verbally and in writing in the language of the
36 client, or in other modes of communication of the client, and in
37 English. Notice shall also be given to the agency and such other
38 persons as the court may direct. The petition for involuntary

Amendment No. 1

39 admission to residential services shall be served with the
40 notice.

41 (b) If a motion or petition has been filed pursuant to s.
42 916.303 to dismiss criminal charges against a defendant who has
43 an intellectual disability or autism, and a petition is filed to
44 involuntarily admit the defendant to residential services under
45 this section, the notice of the filing of the petition must also
46 be given to the defendant's attorney, the state attorney of the
47 circuit from which the defendant was committed, and the agency.

48 (c) The notice must state that a hearing shall be set to
49 inquire into the need of the person who has an intellectual
50 disability or autism for involuntary residential services. The
51 notice must also state the date of the hearing on the petition.

52 (d) The notice must state that the individual who has an
53 intellectual disability or autism has the right to be
54 represented by counsel of his or her own choice and that, if the
55 person cannot afford an attorney, the court shall appoint one.

56 (4) AGENCY PARTICIPATION.—

57 (a) Upon receiving the petition, the court shall
58 immediately order the agency to examine the person being
59 considered for involuntary admission to residential services to
60 determine if the person is eligible for agency services.

61 (b) Following examination, the agency shall file a written
62 report with the court at least 10 working days before the date
63 of the hearing. The report must be served on the petitioner, the

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Amendment No. 1

64 person who has the intellectual disability or autism and his or
65 her guardian or guardian advocate if one has been appointed, and
66 the person's attorney at the time the report is filed with the
67 court.

68 (c) The report must contain the findings of the agency's
69 evaluation, any recommendations deemed appropriate, and a
70 determination of whether the person is eligible for services
71 under this chapter. If the agency determines the person is not
72 eligible for agency services, the agency shall provide written
73 notification of its eligibility determination to the person or
74 his or her attorney, and the person shall have a right to appeal
75 that determination under the Medicaid fair hearing process in s.
76 393.125. The agency must also notify the person or his or her
77 attorney that the person may appeal the agency determination
78 under the procedures in s. 393.125. In such circumstance, the
79 proceeding for the petition of involuntary admission to
80 residential services under this section shall be stayed pending
81 the outcome of any appellate proceeding.

82 (5) EXAMINING COMMITTEE.—

83 (a) If the agency examination determines the person is
84 eligible for agency services ~~Upon receiving the petition,~~ the
85 court shall immediately appoint an examining committee to
86 examine the person being considered for involuntary admission to
87 residential services provided by the agency.

Amendment No. 1

88 (b) The court shall appoint at least two, but no more than
89 three, qualified experts who must be disinterested in the
90 outcome of the proceeding and who meet the requirements for a
91 qualified evaluator as defined in paragraph (15) (d) ~~three~~
92 ~~disinterested experts who have demonstrated to the court an~~
93 ~~expertise in the diagnosis, evaluation, and treatment of persons~~
94 ~~who have intellectual disabilities or autism.~~ The committee must
95 include at least one licensed and qualified physician, and one
96 licensed and qualified psychologist, ~~and one qualified~~
97 ~~professional who, at a minimum, has a master's degree in social~~
98 ~~work, special education, or vocational rehabilitation~~
99 ~~counseling,~~ to examine the person and to testify at the hearing
100 on the involuntary admission to residential services. If a
101 licensed and qualified expert from one of these professions is
102 unavailable, the court may appoint two licensed and qualified
103 experts from the same profession.

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106 **T I T L E A M E N D M E N T**

107 Remove lines 3-4 and insert:

108 393.11, F.S.; requiring the Agency for