

By Senator Powell

30-01948A-19

20191418\_\_

1                   A bill to be entitled  
2       An act relating to admission to mental health  
3       facilities; amending ss. 394.4599 and 394.4785, F.S.;  
4       requiring a court to appoint a public guardian for a  
5       person who is subject to a petition for involuntary  
6       services under certain circumstances; requiring the  
7       clerk of the court to immediately notify the public  
8       guardian of the appointment; providing requirements  
9       for such public guardian; granting access to certain  
10      persons and records for an attorney representing a  
11      patient subject to a petition for involuntary  
12      services; requiring such attorney to represent the  
13      best interests of the patient; amending s. 394.4625,  
14      F.S.; requiring the administrator of a receiving  
15      facility to file a petition for voluntary placement  
16      within a specified timeframe after a person younger  
17      than a specified age is admitted for services or  
18      transferred to voluntary status except when specified  
19      parties agree in writing that treatment is in the  
20      person's best interest; providing requirements for  
21      such petitions; requiring the court to hold a hearing  
22      within a specified timeframe to verify consent under  
23      certain circumstances; amending s. 394.499, F.S.;  
24      requiring the administrator of a children's crisis  
25      stabilization unit or a juvenile addictions receiving  
26      facility to file a petition for voluntary placement  
27      within a specified timeframe after a person under a  
28      specified age is admitted for services except when  
29      specified parties agree in writing that treatment is

30-01948A-19

20191418\_\_

30 in the person's best interest; requiring the court to  
31 hold a hearing within a specified timeframe to verify  
32 consent under certain circumstances; providing an  
33 effective date.

34  
35 Be It Enacted by the Legislature of the State of Florida:

36  
37 Section 1. Paragraph (c) of subsection (2) of section  
38 394.4599, Florida Statutes, is amended to read:

39 394.4599 Notice.—

40 (2) INVOLUNTARY ADMISSION.—

41 (c)1.a. A receiving facility shall give notice of the  
42 whereabouts of a minor who is being involuntarily held for  
43 examination pursuant to s. 394.463 to the minor's parent,  
44 guardian, caregiver, or guardian advocate, in person or by  
45 telephone or other form of electronic communication, immediately  
46 after the minor's arrival at the facility. The facility may  
47 delay notification for no more than 24 hours after the minor's  
48 arrival if the facility has submitted a report to the central  
49 abuse hotline, pursuant to s. 39.201, based upon knowledge or  
50 suspicion of abuse, abandonment, or neglect and if the facility  
51 deems a delay in notification to be in the minor's best  
52 interest.

53 b. Within 1 court working day after a petition for  
54 involuntary services has been filed, the court shall appoint a  
55 public defender to represent the person who is the subject of  
56 the petition, unless the person is otherwise represented by  
57 counsel. The clerk of the court must immediately notify the  
58 public defender of the appointment. The public defender shall

30-01948A-19

20191418\_\_

59 represent the person until the petition is dismissed, the court  
60 order expires, or the patient is discharged from involuntary  
61 services. The attorney who represents the patient must be  
62 provided access to the patient, witnesses, and records relevant  
63 to the presentation of the patient's case and shall represent  
64 the interests of the patient, regardless of the course of  
65 payment to the attorney.

66       2. The receiving facility shall attempt to notify the  
67 minor's parent, guardian, caregiver, or guardian advocate until  
68 the receiving facility receives confirmation from the parent,  
69 guardian, caregiver, or guardian advocate, verbally, by  
70 telephone or other form of electronic communication, or by  
71 recorded message, that notification has been received. Attempts  
72 to notify the parent, guardian, caregiver, or guardian advocate  
73 must be repeated at least once every hour during the first 12  
74 hours after the minor's arrival and once every 24 hours  
75 thereafter and must continue until such confirmation is  
76 received, unless the minor is released at the end of the 72-hour  
77 examination period, or until a petition for involuntary services  
78 is filed with the court pursuant to s. 394.463(2)(g). The  
79 receiving facility may seek assistance from a law enforcement  
80 agency to notify the minor's parent, guardian, caregiver, or  
81 guardian advocate if the facility has not received within the  
82 first 24 hours after the minor's arrival a confirmation by the  
83 parent, guardian, caregiver, or guardian advocate that  
84 notification has been received. The receiving facility must  
85 document notification attempts in the minor's clinical record.

86       Section 2. Section 394.4785, Florida Statutes, is amended  
87 to read:

30-01948A-19

20191418\_\_

88 394.4785 Children and Adolescents; admission and placement  
89 in mental health facilities.-

90 (1) A child or adolescent as defined in s. 394.492 may not  
91 be admitted to a state-owned or state-operated mental health  
92 treatment facility. A child may be admitted pursuant to s.  
93 394.4625 or s. 394.467 to a crisis stabilization unit or a  
94 residential treatment center licensed under this chapter or a  
95 hospital licensed under chapter 395. The treatment center, unit,  
96 or hospital must provide the least restrictive available  
97 treatment that is appropriate to the individual needs of the  
98 child or adolescent and must adhere to the guiding principles,  
99 system of care, and service planning provisions contained in  
100 part III of this chapter.

101 (2) A person under the age of 14 who is admitted to any  
102 hospital licensed pursuant to chapter 395 may not be admitted to  
103 a bed in a room or ward with an adult patient in a mental health  
104 unit or share common areas with an adult patient in a mental  
105 health unit. However, a person 14 years of age or older may be  
106 admitted to a bed in a room or ward in the mental health unit  
107 with an adult if the admitting physician documents in the case  
108 record that such placement is medically indicated or for reasons  
109 of safety. Such placement shall be reviewed by the attending  
110 physician or a designee or on-call physician each day and  
111 documented in the case record.

112 (3) Within 1 court working day after a petition for  
113 involuntary services has been filed, the court shall appoint a  
114 public defender to represent the person who is the subject of  
115 the petition, unless the person is otherwise represented by  
116 counsel. The clerk of the court must immediately notify the

30-01948A-19

20191418\_\_

117 public defender of the appointment. The public defender shall  
118 represent the person until the petition is dismissed, the court  
119 order expires, or the patient is discharged from involuntary  
120 services. The attorney who represents the patient must be  
121 provided access to the patient, witnesses, and records relevant  
122 to the presentation of the patient's case and shall represent  
123 the interests of the patient, regardless of the course of  
124 payment to the attorney.

125 Section 3. Paragraph (a) of subsection (1) and subsection  
126 (4) of section 394.4625, Florida Statutes, are amended to read:

127 394.4625 Voluntary admissions.—

128 (1) AUTHORITY TO RECEIVE PATIENTS.—

129 (a) A facility may receive for observation, diagnosis, or  
130 treatment any person 18 years of age or older making application  
131 to the facility by express and informed consent for admission or  
132 any person age 17 or under for whom such application is made by  
133 his or her parent or legal guardian. If found to show evidence  
134 of mental illness, to be competent to provide express and  
135 informed consent, and to be suitable for treatment, such person  
136 18 years of age or older may be admitted to the facility.

137 1. Within 24 hours after a person age 17 or under is  
138 admitted for observation, diagnosis, or treatment or transferred  
139 to voluntary status pursuant to subsection (4), except when the  
140 minor, the parent or legal guardian of the minor, and the  
141 psychiatrist or physician observing, diagnosing, or treating the  
142 minor all agree in writing that treatment is in the best  
143 interest of the minor, the administrator of the facility shall  
144 file with the court in the county where such person is located a  
145 petition for voluntary placement. Such petition shall include

30-01948A-19

20191418\_\_

146 all forms and information as required by the department,  
147 including, but not limited to, the application for voluntary  
148 admission or application to transfer to voluntary status; the  
149 express and informed consent of the person age 17 or under and  
150 his or her parent or legal guardian to admission for treatment;  
151 certification that the disclosures required under s. 394.459 to  
152 obtain such express and informed consent were communicated to  
153 the person and his or her parent or legal guardian; and  
154 pertinent demographic information about the person and his or  
155 her parent or legal guardian, including whether a parenting plan  
156 in a final judgment of dissolution of marriage or a final  
157 judgment of paternity has been entered, whether the parent or  
158 legal guardian is authorized to make health care decisions on  
159 behalf of the person, and certification that a copy of the final  
160 judgment or other document that establishes the authority of the  
161 parent or legal guardian has been or will be provided to the  
162 court. Upon filing, the clerk of the court shall provide copies  
163 to the department, to the person age 17 or under, and to his or  
164 her parent or legal guardian. A fee may not be charged for the  
165 filing of a petition under this subparagraph.

166 2. Unless a continuance is granted, a court shall hold a  
167 hearing within 5 court working days after a person age 17 or  
168 under ~~is~~ ~~may be~~ admitted ~~only after a hearing~~ to verify that the  
169 ~~voluntariness of the consent to admission is voluntary.~~

170 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient  
171 who is 18 years of age or older and who applies to be  
172 transferred to voluntary status, or an involuntary patient who  
173 is age 17 or under and whose parent or legal guardian has made  
174 application on his or her behalf to transfer to voluntary

30-01948A-19

20191418\_\_

175 status, shall be transferred to voluntary status immediately,  
176 unless the patient has been charged with a crime, or has been  
177 involuntarily placed for treatment by a court pursuant to s.  
178 394.467 and continues to meet the criteria for involuntary  
179 placement. Within 24 hours after transfer to voluntary status of  
180 a person age 17 or under, except when the minor, the parent or  
181 legal guardian of the minor, and the psychiatrist or physician  
182 observing, diagnosing, or treating the minor all agree in  
183 writing that treatment is in the best interest of the minor, the  
184 administrator of the facility shall file a petition in  
185 accordance with subparagraph (1) (a)1. A court shall hold a  
186 hearing within 5 court working days after receiving a petition  
187 for voluntary placement for a patient age 17 or under to verify  
188 that the consent to remain in the facility is voluntary. When  
189 transfer to voluntary status occurs, notice shall be given as  
190 provided in s. 394.4599.

191 Section 4. Paragraph (a) of subsection (2) of section  
192 394.499, Florida Statutes, is amended to read:

193 394.499 Integrated children's crisis stabilization  
194 unit/juvenile addictions receiving facility services.-

195 (2) Children eligible to receive integrated children's  
196 crisis stabilization unit/juvenile addictions receiving facility  
197 services include:

198 (a) A person under 18 years of age for whom voluntary  
199 application is made by his or her parent or legal guardian, if  
200 such person is found to show evidence of mental illness and to  
201 be suitable for treatment pursuant to s. 394.4625. The  
202 administrator of the facility shall file a petition for  
203 voluntary placement, pursuant to s. 394.4625, within 24 hours

30-01948A-19

20191418\_\_

204 after a person under 18 years of age is admitted for integrated  
205 facility services. Unless a continuance is granted, a court  
206 shall hold a hearing within 5 court working days after a person  
207 under 18 years of age is ~~may be~~ admitted ~~for integrated facility~~  
208 ~~services only after a hearing~~ to verify that the consent to  
209 admission is voluntary.

210 Section 5. This act shall take effect July 1, 2019.