

By Senator Forman

32-604-00

1 A bill to be entitled
 2 An act relating to mental health services for
 3 children and adolescents; amending s. 394.4625,
 4 F.S.; specifying that the court must conduct
 5 the hearing on the voluntariness of admission
 6 to mental health facilities; requiring written
 7 verification from the court to the admitting
 8 facility; amending s. 394.4785, F.S.;
 9 prohibiting children and adolescents from
 10 admission to state mental health treatment
 11 facilities; requiring residential treatment
 12 centers for children and adolescents to adhere
 13 to certain standards; amending s. 394.875,
 14 F.S.; requiring the licensure of residential
 15 treatment centers for children and adolescents;
 16 requiring the Department of Children and Family
 17 Services to adopt rules; amending s. 409.175,
 18 F.S.; specifying that residential child-caring
 19 agencies do not include residential treatment
 20 centers for children and adolescents; providing
 21 an effective date.

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

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 25 Section 1. Subsection (1) of section 394.4625, Florida
 26 Statutes, is amended to read:

27 394.4625 Voluntary admissions.--

28 (1) AUTHORITY TO RECEIVE PATIENTS.--

29 (a) A facility may receive for observation, diagnosis,
 30 or treatment any person 18 years of age or older making
 31 application by express and informed consent for admission or

1 any person age 17 or under for whom such application is made
2 by his or her guardian. If found to show evidence of mental
3 illness, to be competent to provide express and informed
4 consent, and to be suitable for treatment, such person 18
5 years of age or older may be admitted to the facility. A
6 person age 17 or under may be admitted only after a court
7 hearing to verify the voluntariness of the consent. The court
8 must submit a statement to the admitting facility verifying
9 that the child or adolescent is voluntarily consenting to
10 admission for treatment and is not being forced or coerced
11 into the facility against his or her will. The statement must
12 also be sent to the parents of the child or adolescent unless
13 their parental rights have been terminated and to the
14 department if the child or adolescent is in the custody of the
15 department pursuant to chapter 39. If the court finds that the
16 child or adolescent is not voluntarily seeking admission for
17 mental health treatment, the child or adolescent must be
18 released or procedures for involuntary placement must be
19 initiated pursuant to s. 394.467.

20 (b) A mental health overlay program or a mobile crisis
21 response service or a licensed professional who is authorized
22 to initiate an involuntary examination pursuant to s. 394.463
23 and is employed by a community mental health center or clinic
24 must, pursuant to district procedure approved by the
25 respective district administrator, conduct an initial
26 assessment of the ability of the following persons to give
27 express and informed consent to treatment before such persons
28 may be admitted voluntarily:

29 1. A person 60 years of age or older for whom transfer
30 is being sought from a nursing home, assisted living facility,
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1 adult day care center, or adult family-care home, when such
2 person has been diagnosed as suffering from dementia.

3 2. A person 60 years of age or older for whom transfer
4 is being sought from a nursing home pursuant to s.
5 400.0255(12).

6 3. A person for whom all decisions concerning medical
7 treatment are currently being lawfully made by the health care
8 surrogate or proxy designated under chapter 765.

9 (c) When an initial assessment of the ability of a
10 person to give express and informed consent to treatment is
11 required under this section, and a mobile crisis response
12 service does not respond to the request for an assessment
13 within 2 hours after the request is made or informs the
14 requesting facility that it will not be able to respond within
15 2 hours after the request is made, the requesting facility may
16 arrange for assessment by any licensed professional authorized
17 to initiate an involuntary examination pursuant to s. 394.463
18 who is not employed by or under contract with, and does not
19 have a financial interest in, either the facility initiating
20 the transfer or the receiving facility to which the transfer
21 may be made.

22 (d) A facility may not admit as a voluntary patient a
23 person who has been adjudicated incapacitated, unless the
24 condition of incapacity has been judicially removed. If a
25 facility admits as a voluntary patient a person who is later
26 determined to have been adjudicated incapacitated, and the
27 condition of incapacity had not been removed by the time of
28 the admission, the facility must either discharge the patient
29 or transfer the patient to involuntary status.

30 (e) The health care surrogate or proxy of a voluntary
31 patient may not consent to the provision of mental health

1 treatment for the patient. A voluntary patient who is
2 unwilling or unable to provide express and informed consent to
3 mental health treatment must either be discharged or
4 transferred to involuntary status.

5 (f) Within 24 hours after admission of a voluntary
6 patient, the admitting physician shall document in the
7 patient's clinical record that the patient is able to give
8 express and informed consent for admission. If the patient is
9 not able to give express and informed consent for admission,
10 the facility shall either discharge the patient or transfer
11 the patient to involuntary status pursuant to subsection (5).

12 Section 2. Section 394.4785, Florida Statutes, is
13 amended to read:

14 394.4785 Children and adolescents ~~Minors~~; admission
15 and placement in mental facilities.--

16 (1) A child or adolescent as defined in s. 394.492 may
17 not be admitted to a state-owned or state-operated mental
18 health treatment facility. A child may be admitted as a
19 voluntary patient pursuant to s. 394.4625 upon the
20 verification by the court that the admission is voluntary or
21 may be admitted pursuant to a court order under s. 394.467 to
22 a crisis stabilization unit or a residential treatment center
23 licensed under chapter 394 or a hospital licensed under
24 chapter 395. The treatment center, unit, or hospital must
25 provide the least-restrictive available treatment that is
26 appropriate to the individual needs of the child or adolescent
27 and must adhere to the guiding principles, system of care, and
28 service planning provisions contained in part III of chapter
29 394. ~~(a) A minor who is admitted to a state mental hospital~~
30 ~~and placed in the general population or in a specialized unit~~
31 ~~for children or adolescents shall reside in living quarters~~

1 ~~separate from adult patients, and a minor who has not attained~~
2 ~~the age of 14 shall reside in living quarters separate from~~
3 ~~minors who are 14 years of age or older.~~

4 (2)(b) A person ~~minor~~ under the age of 14 who is
5 admitted to any hospital licensed pursuant to chapter 395 may
6 ~~shall~~ not be admitted to a bed in a room or ward with an adult
7 patient in a mental health unit or share common areas with an
8 adult patient in a mental health unit. However, a person
9 ~~minor~~ 14 years of age or older may be admitted to a bed in a
10 room or ward in the mental health unit with an adult if the
11 admitting physician documents in the case record that such
12 placement is medically indicated or for reasons of safety.
13 Such placement shall be reviewed by the attending physician or
14 a designee or on-call physician each day and documented in the
15 case record.

16 ~~(2) In all cases involving the admission of minors to~~
17 ~~a state mental hospital, the case record shall document that a~~
18 ~~good faith effort was made to place the minor in a less~~
19 ~~restrictive form of treatment. Admission to a state mental~~
20 ~~hospital shall be regarded as the last and only treatment~~
21 ~~option available. Notwithstanding the provision of paragraph~~
22 ~~(1)(a), an individual under the age of 18 may be housed in the~~
23 ~~general population if the hospital multidisciplinary treatment~~
24 ~~and rehabilitation team has reviewed the patient and has~~
25 ~~documented in the case record that such placement is necessary~~
26 ~~for reasons of safety. Such patients placed in the general~~
27 ~~population must be reviewed by this team every 30 days and~~
28 ~~recertified as appropriate for placement in the general~~
29 ~~population.~~

30 Section 3. Section 394.875, Florida Statutes, is
31 amended to read:

1 394.875 Crisis stabilization units,~~and~~ residential
2 treatment facilities, and residential treatment centers for
3 children and adolescents; authorized services; license
4 required; penalties.--

5 (1)(a) The purpose of a crisis stabilization unit is
6 to stabilize and redirect a client to the most appropriate and
7 least restrictive community setting available, consistent with
8 the client's needs. Crisis stabilization units may screen,
9 assess, and admit for stabilization persons who present
10 themselves to the unit and persons who are brought to the unit
11 under s. 394.463. Clients may be provided 24-hour
12 observation, medication prescribed by a physician or
13 psychiatrist, and other appropriate services. Crisis
14 stabilization units shall provide services regardless of the
15 client's ability to pay and shall be limited in size to a
16 maximum of 30 beds.

17 (b) The purpose of a residential treatment facility is
18 to be a part of a comprehensive treatment program for mentally
19 ill individuals in a community-based residential setting.

20 (c) The purpose of a residential treatment center for
21 children and adolescents is to provide mental health
22 assessment and treatment services pursuant to ss. 394.491,
23 394.495, and 394.496 to children and adolescents who meet the
24 target population criteria specified in s. 394.493(1)(a), (b),
25 or (c).

26 (2) It is unlawful for any entity to hold itself out
27 as a crisis stabilization unit,~~or~~ a residential treatment
28 facility, or a residential treatment center for children and
29 adolescents,~~or~~ to act as a crisis stabilization unit,~~or~~ a
30 residential treatment facility, or a residential treatment
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1 center for children and adolescents, unless it is licensed by
2 the agency pursuant to this chapter.

3 (3) Any person who violates subsection (2) is guilty
4 of a misdemeanor of the first degree, punishable as provided
5 in s. 775.082 or s. 775.083.

6 (4) The agency may maintain an action in circuit court
7 to enjoin the unlawful operation of a crisis stabilization
8 unit, or a residential treatment facility, or a residential
9 treatment center for children and adolescents if the agency
10 first gives the violator 14 days' notice of its intention to
11 maintain such action and if the violator fails to apply for
12 licensure within such 14-day period.

13 (5) Subsection (2) does not apply to:

14 (a) Homes for special services licensed under chapter
15 400; or

16 (b) Nursing homes licensed under chapter 400, ~~or~~

17 ~~(c) Residential child caring facilities licensed under~~
18 ~~s. 409.175.~~

19 (6) The department, in consultation with the agency,
20 may establish multiple license classifications for residential
21 treatment facilities.

22 (7) The agency may not issue a license to a crisis
23 stabilization unit unless the unit receives state mental
24 health funds and is affiliated with a designated public
25 receiving facility.

26 (8) The agency may issue a license for a crisis
27 stabilization unit or short-term residential treatment
28 facility, certifying the number of authorized beds for such
29 facility as indicated by existing need and available
30 appropriations. The agency may disapprove an application for
31 such a license if it determines that a facility should not be

1 licensed pursuant to the provisions of this chapter. Any
2 facility operating beds in excess of those authorized by the
3 agency shall, upon demand of the agency, reduce the number of
4 beds to the authorized number, forfeit its license, or provide
5 evidence of a license issued pursuant to chapter 395 for the
6 excess beds.

7 (9) A children's crisis stabilization unit which does
8 not exceed 20 licensed beds and which provides separate
9 facilities or a distinct part of a facility, separate
10 staffing, and treatment exclusively for minors may be located
11 on the same premises as a crisis stabilization unit serving
12 adults. The department, in consultation with the agency, shall
13 adopt rules governing facility construction, staffing and
14 licensure requirements, and the operation of such units for
15 minors.

16 (10) The department, in consultation with the agency,
17 must adopt rules governing a residential treatment center for
18 children and adolescents which specify program and staffing
19 standards, standards for using seclusion and restraints,
20 rights of patients under s. 394.459, licensure requirements,
21 and standards for the operation of such centers.

22 ~~(11)~~~~(10)~~ Notwithstanding the provisions of subsection
23 (8), crisis stabilization units may not exceed their licensed
24 capacity by more than 10 percent, nor may they exceed their
25 licensed capacity for more than 3 consecutive working days or
26 for more than 7 days in 1 month.

27 ~~(12)~~~~(11)~~ Notwithstanding the other provisions of this
28 section, any facility licensed under chapters 396 and 397 for
29 detoxification, residential level I care, and outpatient
30 treatment may elect to license concurrently all of the beds at
31 such facility both for that purpose and as a long-term

1 residential treatment facility pursuant to this section, if
2 all of the following conditions are met:

3 (a) The licensure application is received by the
4 department prior to January 1, 1993.

5 (b) On January 1, 1993, the facility was licensed
6 under chapters 396 and 397 as a facility for detoxification,
7 residential level I care, and outpatient treatment of
8 substance abuse.

9 (c) The facility restricted its practice to the
10 treatment of law enforcement personnel for a period of at
11 least 12 months beginning after January 1, 1992.

12 (d) The number of beds to be licensed under chapter
13 394 is equal to or less than the number of beds licensed under
14 chapters 396 and 397 as of January 1, 1993.

15 (e) The licensee agrees in writing to a condition
16 placed upon the license that the facility will limit its
17 treatment exclusively to law enforcement personnel and their
18 immediate families who are seeking admission on a voluntary
19 basis and who are exhibiting symptoms of posttraumatic stress
20 disorder or other mental health problems, including drug or
21 alcohol abuse, which are directly related to law enforcement
22 work and which are amenable to verbal treatment therapies; the
23 licensee agrees to coordinate the provision of appropriate
24 postresidential care for discharged individuals; and the
25 licensee further agrees in writing that a failure to meet any
26 condition specified in this paragraph shall constitute grounds
27 for a revocation of the facility's license as a residential
28 treatment facility.

29 (f) The licensee agrees that the facility will meet
30 all licensure requirements for a residential treatment
31 facility, including minimum standards for compliance with

1 | lifesafety requirements, except those licensure requirements
2 | which are in express conflict with the conditions and other
3 | provisions specified in this subsection.

4 | (g) The licensee agrees that the conditions stated in
5 | this subsection must be agreed to in writing by any person
6 | acquiring the facility by any means.

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8 | Any facility licensed under this subsection is not required to
9 | provide any services to any persons except those included in
10 | the specified conditions of licensure, and is exempt from any
11 | requirements related to the 60-day or greater average length
12 | of stay imposed on community-based residential treatment
13 | facilities otherwise licensed under this chapter.

14 | (13)~~(12)~~ Each applicant for licensure must comply with
15 | the following requirements:

16 | (a) Upon receipt of a completed, signed, and dated
17 | application, the agency shall require background screening, in
18 | accordance with the level 2 standards for screening set forth
19 | in chapter 435, of the managing employee and financial
20 | officer, or other similarly titled individual who is
21 | responsible for the financial operation of the facility,
22 | including billings for client care and services. The applicant
23 | must comply with the procedures for level 2 background
24 | screening as set forth in chapter 435, as well as the
25 | requirements of s. 435.03(3).

26 | (b) The agency may require background screening of any
27 | other individual who is an applicant if the agency has
28 | probable cause to believe that he or she has been convicted of
29 | a crime or has committed any other offense prohibited under
30 | the level 2 standards for screening set forth in chapter 435.

31 |

1 (c) Proof of compliance with the level 2 background
2 screening requirements of chapter 435 which has been submitted
3 within the previous 5 years in compliance with any other
4 health care licensure requirements of this state is acceptable
5 in fulfillment of the requirements of paragraph (a).

6 (d) A provisional license may be granted to an
7 applicant when each individual required by this section to
8 undergo background screening has met the standards for the
9 abuse registry background check and the Department of Law
10 Enforcement background check, but the agency has not yet
11 received background screening results from the Federal Bureau
12 of Investigation, or a request for a disqualification
13 exemption has been submitted to the agency as set forth in
14 chapter 435, but a response has not yet been issued. A
15 standard license may be granted to the applicant upon the
16 agency's receipt of a report of the results of the Federal
17 Bureau of Investigation background screening for each
18 individual required by this section to undergo background
19 screening which confirms that all standards have been met, or
20 upon the granting of a disqualification exemption by the
21 agency as set forth in chapter 435. Any other person who is
22 required to undergo level 2 background screening may serve in
23 his or her capacity pending the agency's receipt of the report
24 from the Federal Bureau of Investigation. However, the person
25 may not continue to serve if the report indicates any
26 violation of background screening standards and a
27 disqualification exemption has not been requested of and
28 granted by the agency as set forth in chapter 435.

29 (e) Each applicant must submit to the agency, with its
30 application, a description and explanation of any exclusions,
31 permanent suspensions, or terminations of the applicant from

1 the Medicare or Medicaid programs. Proof of compliance with
2 the requirements for disclosure of ownership and control
3 interests under the Medicaid or Medicare programs shall be
4 accepted in lieu of this submission.

5 (f) Each applicant must submit to the agency a
6 description and explanation of any conviction of an offense
7 prohibited under the level 2 standards of chapter 435 by a
8 member of the board of directors of the applicant, its
9 officers, or any individual owning 5 percent or more of the
10 applicant. This requirement does not apply to a director of a
11 not-for-profit corporation or organization if the director
12 serves solely in a voluntary capacity for the corporation or
13 organization, does not regularly take part in the day-to-day
14 operational decisions of the corporation or organization,
15 receives no remuneration for his or her services on the
16 corporation or organization's board of directors, and has no
17 financial interest and has no family members with a financial
18 interest in the corporation or organization, provided that the
19 director and the not-for-profit corporation or organization
20 include in the application a statement affirming that the
21 director's relationship to the corporation satisfies the
22 requirements of this paragraph.

23 (g) A license may not be granted to an applicant if
24 the applicant or managing employee has been found guilty of,
25 regardless of adjudication, or has entered a plea of nolo
26 contendere or guilty to, any offense prohibited under the
27 level 2 standards for screening set forth in chapter 435,
28 unless an exemption from disqualification has been granted by
29 the agency as set forth in chapter 435.

30 (h) The agency may deny or revoke licensure if the
31 applicant:

1 1. Has falsely represented a material fact in the
2 application required by paragraph (e) or paragraph (f), or has
3 omitted any material fact from the application required by
4 paragraph (e) or paragraph (f); or

5 2. Has had prior action taken against the applicant
6 under the Medicaid or Medicare program as set forth in
7 paragraph (e).

8 (i) An application for license renewal must contain
9 the information required under paragraphs (e) and (f).

10 Section 4. Paragraph (j) of subsection (2) of section
11 409.175, Florida Statutes, is amended to read:

12 409.175 Licensure of family foster homes, residential
13 child-caring agencies, and child-placing agencies.--

14 (2) As used in this section, the term:

15 (j) "Residential child-caring agency" means any
16 person, corporation, or agency, public or private, other than
17 the child's parent or legal guardian, that provides staffed
18 24-hour care for children in facilities maintained for that
19 purpose, regardless of whether operated for profit or whether
20 a fee is charged. Such residential child-caring agencies
21 include, but are not limited to, maternity homes, runaway
22 shelters, group homes that are administered by an agency,
23 emergency shelters that are not in private residences, and
24 wilderness camps. Residential child-caring agencies do not
25 include hospitals, boarding schools, summer or recreation
26 camps, nursing homes, or facilities operated by a governmental
27 agency for the training, treatment, or secure care of
28 delinquent youth, or facilities licensed under s. 393.067 or
29 s. 394.875 or chapter 397.

30 Section 5. This act shall take effect October 1, 2000.
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SENATE SUMMARY

Requires the hearing on voluntariness of the admission of children and adolescents to mental health facilities to be conducted by a court and requires written verification from the court to the admitting facility. Prohibits the admission of children and adolescents to state-owned or state-operated mental health facilities. Requires residential treatment centers for children and adolescents to adhere to specified standards. Requires licensure of such centers and requires the Department of Children and Family Services to adopt certain rules. Excludes residential treatment centers from the definition of the term "residential child-caring agency."