

By Senator Mitchell

4-820-01

See HB

1 A bill to be entitled
2 An act relating to mental health services;
3 amending s. 394.455, F.S.; providing
4 definitions of "marriage and family therapist"
5 and "mental health counselor" for purposes of
6 "The Florida Mental Health Act"; amending s.
7 394.463, F.S.; providing that a marriage and
8 family therapist or a mental health counselor
9 may execute a certificate for involuntary
10 examination of a person suspected of mental
11 illness; amending ss. 39.407, 394.495, 394.496,
12 394.498, 419.001, 744.704, 984.19, F.S.;
13 conforming cross-references; providing an
14 effective date.

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

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18 Section 1. Present subsections (17) through (30) of
19 section 394.455, Florida Statutes, are renumbered as
20 subsections (19) through (32), respectively, and new
21 subsections (17) and (18) are added to that section to read:

22 394.455 Definitions.--As used in this part, unless the
23 context clearly requires otherwise, the term:

24 (17) "Marriage and family therapist" means a person
25 licensed as a marriage and family therapist under chapter 491.

26 (18) "Mental health counselor" means a person licensed
27 as a mental health counselor under chapter 491.

28 Section 2. Paragraph (a) of subsection (2) of section
29 394.463, Florida Statutes, is amended to read:

30 394.463 Involuntary examination.--

31 (2) INVOLUNTARY EXAMINATION.--

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

3 1. A court may enter an ex parte order stating that a
4 person appears to meet the criteria for involuntary
5 examination, giving the findings on which that conclusion is
6 based. The ex parte order for involuntary examination must be
7 based on sworn testimony, written or oral. If other less
8 restrictive means are not available, such as voluntary
9 appearance for outpatient evaluation, a law enforcement
10 officer, or other designated agent of the court, shall take
11 the person into custody and deliver him or her to the nearest
12 receiving facility for involuntary examination. The order of
13 the court shall be made a part of the patient's clinical
14 record. No fee shall be charged for the filing of an order
15 under this subsection. Any receiving facility accepting the
16 patient based on this order must send a copy of the order to
17 the Agency for Health Care Administration on the next working
18 day. The order shall be valid only until executed or, if not
19 executed, for the period specified in the order itself. If no
20 time limit is specified in the order, the order shall be valid
21 for 7 days after the date that the order was signed.

22 2. A law enforcement officer shall take a person who
23 appears to meet the criteria for involuntary examination into
24 custody and deliver the person or have him or her delivered to
25 the nearest receiving facility for examination. The officer
26 shall execute a written report detailing the circumstances
27 under which the person was taken into custody, and the report
28 shall be made a part of the patient's clinical record. Any
29 receiving facility accepting the patient based on this report
30 must send a copy of the report to the Agency for Health Care
31 Administration on the next working day.

1 3. A physician, clinical psychologist, psychiatric
2 nurse, marriage and family therapist, mental health counselor,
3 or clinical social worker may execute a certificate stating
4 that he or she has examined a person within the preceding 48
5 hours and finds that the person appears to meet the criteria
6 for involuntary examination and stating the observations upon
7 which that conclusion is based. If other less restrictive
8 means are not available, such as voluntary appearance for
9 outpatient evaluation, a law enforcement officer shall take
10 the person named in the certificate into custody and deliver
11 him or her to the nearest receiving facility for involuntary
12 examination. The law enforcement officer shall execute a
13 written report detailing the circumstances under which the
14 person was taken into custody. The report and certificate
15 shall be made a part of the patient's clinical record. Any
16 receiving facility accepting the patient based on this
17 certificate must send a copy of the certificate to the Agency
18 for Health Care Administration on the next working day.

19 Section 3. Paragraph (b) of subsection (3) and
20 subsection (4) of section 39.407, Florida Statutes, are
21 amended to read:

22 39.407 Medical, psychiatric, and psychological
23 examination and treatment of child; physical or mental
24 examination of parent or person requesting custody of child.--

25 (3)

26 (b) The judge may also order such child to be
27 evaluated by a psychiatrist or a psychologist or, if a
28 developmental disability is suspected or alleged, by the
29 developmental disability diagnostic and evaluation team of the
30 department. If it is necessary to place a child in a
31 residential facility for such evaluation, the criteria and

1 procedure established in s. 394.463~~(2)~~ or chapter 393 shall be
2 used, whichever is applicable.

3 (4) A judge may order a child in an out-of-home
4 placement to be treated by a licensed health care professional
5 based on evidence that the child should receive treatment.
6 The judge may also order such child to receive mental health
7 or developmental disabilities services from a psychiatrist,
8 psychologist, or other appropriate service provider. Except
9 as provided in subsection (5), if it is necessary to place the
10 child in a residential facility for such services, the
11 procedures and criteria established in s. 394.467 or chapter
12 393 shall be used, whichever is applicable. A child may be
13 provided developmental disabilities or mental health services
14 in emergency situations, pursuant to the procedures and
15 criteria contained in s. 394.463~~(1)~~ or chapter 393, whichever
16 is applicable.

17 Section 4. Subsection (3) of section 394.495, Florida
18 Statutes, is amended to read:

19 394.495 Child and adolescent mental health system of
20 care; programs and services.--

21 (3) Assessments must be performed by:

22 (a) A professional as defined in s. 394.455(2), (4),
23 (23), (25), or (26)~~(21), (23), or (24)~~;

24 (b) A professional licensed under chapter 491; or

25 (c) A person who is under the direct supervision of a
26 professional as defined in s. 394.455(2), (4), (23), (25), or
27 (26)~~(21), (23), or (24)~~ or a professional licensed under
28 chapter 491.

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1 The department shall adopt by rule statewide standards for
2 mental health assessments, which must be based on current
3 relevant professional and accreditation standards.

4 Section 5. Subsection (6) of section 394.496, Florida
5 Statutes, is amended to read:

6 394.496 Service planning.--

7 (6) A professional as defined in s. 394.455(2), (4),
8 (23), (25), or (26)~~(21), (23), or (24)~~ or a professional
9 licensed under chapter 491 must be included among those
10 persons developing the services plan.

11 Section 6. Paragraphs (a) and (c) of subsection (4) of
12 section 394.498, Florida Statutes, are amended to read:

13 394.498 Child and Adolescent Interagency System of
14 Care Demonstration Models.--

15 (4) ESSENTIAL ELEMENTS.--

16 (a) In order to be approved as a Child and Adolescent
17 Interagency System of Care Demonstration Model, the applicant
18 must demonstrate its capacity to perform the following
19 functions:

20 1. Form a consortium of purchasers, which includes at
21 least three of the following agencies:

22 a. The Mental Health Program and Family Safety and
23 Preservation Program of the Department of Children and Family
24 Services.

25 b. The Medicaid program of the Agency for Health Care
26 Administration.

27 c. The local school district.

28 d. The Department of Juvenile Justice.

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1 Each agency that participates in the consortium shall enter
2 into a written interagency agreement that defines each
3 agency's responsibilities.

4 2. Establish an oversight body that is responsible for
5 directing the demonstration model. The oversight body must
6 include representatives from the state agencies that comprise
7 the consortium of purchasers under subparagraph 1., as well as
8 local governmental entities, a juvenile court judge, parents,
9 and other community entities. The responsibilities of the
10 oversight body must be specified in writing.

11 3. Select a target population of children and
12 adolescents, regardless of whether the child or adolescent is
13 eligible or ineligible for Medicaid, based on the following
14 parameters:

15 a. The child or adolescent has a serious emotional
16 disturbance or mental illness, as defined in s. 394.492(6),
17 based on an assessment conducted by a licensed practitioner
18 defined in s. 394.455(2), (4), (23), (25), or (26)~~(21)~~, ~~(23)~~,
19 ~~or (24)~~ or by a professional licensed under chapter 491;

20 b. The total service costs per child or adolescent
21 have exceeded \$3,000 per month;

22 c. The child or adolescent has had multiple
23 out-of-home placements;

24 d. The existing array of services does not effectively
25 meet the needs of the child or adolescent;

26 e. The case of the child or adolescent has been
27 staffed by a district collaborative planning team and
28 satisfactory results have not been achieved through existing
29 case services plans; and
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1 f. The parent or legal guardian of the child or
2 adolescent consents to participating in the demonstration
3 model.

4 4. Select a geographic site for the demonstration
5 model. A demonstration model may be comprised of one or more
6 counties and may include multiple service districts of the
7 Department of Children and Family Services.

8 5. Develop a mechanism for selecting the pool of
9 children and adolescents who meet the criteria specified in
10 this section for participating in the demonstration model.

11 6. Establish a pooled funding plan that allocates
12 proportionate costs to the purchasers. The plan must address
13 all of the service needs of the child or adolescent, and funds
14 may not be identified in the plan by legislative appropriation
15 category or any other state or federal funding category.

16 a. The funding plan shall be developed based on an
17 analysis of expenditures made by each participating state
18 agency during the previous 2 fiscal years in which services
19 were provided for the target population or for individuals who
20 have characteristics that are similar to the target
21 population.

22 b. Based on the results of this cost analysis, funds
23 shall be collected from each of the participating state
24 agencies and deposited into a central financial account.

25 c. A financial body shall be designated to manage the
26 pool of funds and shall have the capability to pay for
27 individual services specified in a services plan.

28 7. Identify a care management entity that reports to
29 the oversight body. For purposes of the demonstration models,
30 the term "care management entity" means the entity that
31 assumes responsibility for the organization, planning,

1 purchasing, and management of mental health treatment services
2 to the target population in the demonstration model. The care
3 management entity may not provide direct services to the
4 target population. The care management entity shall:

5 a. Manage the funds of the demonstration model within
6 budget allocations. The administrative costs associated with
7 the operation of the demonstration model must be itemized in
8 the entity's operating budget.

9 b. Purchase individual services in a timely manner.

10 c. Review the completed client assessment information
11 and complete additional assessments that are needed, including
12 an assessment of the strengths of the child or adolescent and
13 his or her family.

14 d. Organize a child-family team to develop a single,
15 unified services plan for the child or adolescent, in
16 accordance with ss. 394.490-394.497. The team shall include
17 the parents and other family members of the child or
18 adolescent, friends and community-based supporters of the
19 child or adolescent, and appropriate service providers who are
20 familiar with the problems and needs of the child or
21 adolescent and his or her family. The plan must include a
22 statement concerning the strengths of the child or adolescent
23 and his or her family, and must identify the natural supports
24 in the family and the community that might be used in
25 addressing the service needs of the child or adolescent. A
26 copy of the completed service plan shall be provided to the
27 parents of the child or adolescent.

28 e. Identify a network of providers that meet the
29 requirements of paragraph (b).

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1 f. Identify informal, unpaid supporters, such as
2 persons from the child's or adolescent's neighborhood, civic
3 organizations, clubs, and churches.

4 g. Identify additional service providers who can work
5 effectively with the child or adolescent and his or her
6 family, including, but not limited to, a home health aide,
7 mentor, respite care worker, and in-home behavioral health
8 care worker.

9 h. Implement a case management system that
10 concentrates on the strengths of the child or adolescent and
11 his or her family and uses these strengths in case planning
12 and implementation activities. The case manager is primarily
13 responsible for developing the services plan and shall report
14 to the care management entity. The case manager shall monitor
15 and oversee the services provided by the network of providers.
16 The parents must be informed about contacting the care
17 management entity or comparable entity to address concerns of
18 the parents.

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20 Each person or organization that performs any of the care
21 management responsibilities specified in this subparagraph is
22 responsible only to the care management entity. However, such
23 care management responsibilities do not preclude the person or
24 organization from performing other responsibilities for
25 another agency or provider.

26 8. Develop a mechanism for measuring compliance with
27 the goals of the demonstration models specified in subsection
28 (2), which mechanism includes qualitative and quantitative
29 performance outcomes, report on compliance rates, and conduct
30 quality improvement functions. At a minimum, the mechanism for
31 measuring compliance must include the outcomes and measures

1 established in the General Appropriations Act and the outcomes
2 and measures that are unique to the demonstration models.

3 9. Develop mechanisms to ensure that family
4 representatives have a substantial role in planning the
5 demonstration model and in designing the instrument for
6 measuring the effectiveness of services provided.

7 10. Develop and monitor grievance procedures.

8 11. Develop policies to ensure that a child or
9 adolescent is not rejected or ejected from the demonstration
10 model because of a clinical condition or a specific service
11 need.

12 12. Develop policies to require that a participating
13 state agency remains a part of the demonstration model for its
14 entire duration.

15 13. Obtain training for the staff involved in all
16 aspects of the project.

17 (c) In order for children, adolescents, and families
18 of children and adolescents to receive timely and effective
19 services, the basic provider network identified in each
20 demonstration model must be well designed and managed. The
21 provider network should be able to meet the needs of a
22 significant proportion of the target population. The applicant
23 must demonstrate the capability to manage the network of
24 providers for the purchasers that participate in the
25 demonstration model. The applicant must demonstrate its
26 ability to perform the following network management functions:

27 1. Identify providers within the designated area of
28 the demonstration model which are currently funded by the
29 state agencies included in the model, and identify additional
30 providers that are needed to provide additional services for
31 the target population. The network of providers may include:

- 1 a. Licensed mental health professionals as defined in
2 s. 394.455(2), (4), (23), (25), or (26)~~(21), (23), or (24)~~;
- 3 b. Professionals licensed under chapter 491;
- 4 c. Teachers certified under s. 231.17;
- 5 d. Facilities licensed under chapter 395, as a
6 hospital; s. 394.875, as a crisis stabilization unit or
7 short-term residential facility; or s. 409.175, as a
8 residential child-caring agency; and
- 9 e. Other community agencies.
- 10 2. Define access points and service linkages of
11 providers in the network.
- 12 3. Define the ways in which providers and
13 participating state agencies are expected to collaborate in
14 providing services.
- 15 4. Define methods to measure the collective
16 performance outcomes of services provided by providers and
17 state agencies, measure the performance of individual
18 agencies, and implement a quality improvement process across
19 the provider network.
- 20 5. Develop brochures for family members which are
21 written in understandable terminology, to help families
22 identify appropriate service providers, choose the provider,
23 and access care directly whenever possible.
- 24 6. Ensure that families are given a substantial role
25 in planning and monitoring the provider network.
- 26 7. Train all providers with respect to the principles
27 of care outlined in this section, including effective
28 techniques of cooperation, the wraparound process and
29 strengths-based assessment, the development of service plans,
30 and techniques of case management.
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1 Section 7. Paragraph (d) of subsection (1) of section
2 419.001, Florida Statutes, is amended to read:

3 419.001 Site selection of community residential
4 homes.--

5 (1) For the purposes of this section, the following
6 definitions shall apply:

7 (d) "Resident" means any of the following: a frail
8 elder as defined in s. 400.618; a physically disabled or
9 handicapped person as defined in s. 760.22(7)(a); a
10 developmentally disabled person as defined in s. 393.063(12);
11 a nondangerous mentally ill person as defined in s.
12 394.455(20)~~(18)~~; or a child as defined in s. 39.01(14), s.
13 984.03(9) or (12), or s. 985.03(8).

14 Section 8. Subsection (7) of section 744.704, Florida
15 Statutes, is amended to read:

16 744.704 Powers and duties.--

17 (7) A public guardian shall not commit a ward to a
18 mental health treatment facility, as defined in s.
19 394.455(32)~~(30)~~, without an involuntary placement proceeding
20 as provided by law.

21 Section 9. Subsections (3) and (4) of section 984.19,
22 Florida Statutes, are amended to read:

23 984.19 Medical, psychiatric, and psychological
24 examination and treatment of child; physical or mental
25 examination of parent, guardian, or person requesting custody
26 of child.--

27 (3) A judge may order that a child alleged to be or
28 adjudicated a child in need of services be examined by a
29 licensed health care professional. The judge may also order
30 such child to be evaluated by a psychiatrist or a
31 psychologist, by a district school board educational needs

1 assessment team, or, if a developmental disability is
2 suspected or alleged, by the developmental disability
3 diagnostic and evaluation team of the Department of Children
4 and Family Services. The judge may order a family assessment
5 if that assessment was not completed at an earlier time. If
6 it is necessary to place a child in a residential facility for
7 such evaluation, then the criteria and procedure established
8 in s. 394.463~~(2)~~ or chapter 393 shall be used, whichever is
9 applicable. The educational needs assessment provided by the
10 district school board educational needs assessment team shall
11 include, but not be limited to, reports of intelligence and
12 achievement tests, screening for learning disabilities and
13 other handicaps, and screening for the need for alternative
14 education pursuant to s. 230.2316.

15 (4) A judge may order that a child alleged to be or
16 adjudicated a child in need of services be treated by a
17 licensed health care professional. The judge may also order
18 such child to receive mental health or retardation services
19 from a psychiatrist, psychologist, or other appropriate
20 service provider. If it is necessary to place the child in a
21 residential facility for such services, then the procedures
22 and criteria established in s. 394.467 or chapter 393 shall be
23 used, whichever is applicable. A child may be provided mental
24 health or retardation services in emergency situations,
25 pursuant to the procedures and criteria contained in s.
26 394.463~~(1)~~ or chapter 393, whichever is applicable.

27 Section 10. This act shall take effect upon becoming a
28 law.

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LEGISLATIVE SUMMARY

Adds marriage and family therapist and mental health counselors to the list of professionals authorized to execute a certificate for involuntary examination of a person suspected of mental illness under The Florida Mental Health Act.