

By the Committee on Children and Families; and Senator Peadar

300-2030-02

1 A bill to be entitled
2 An act relating to mental health treatment;
3 amending s. 394.455, F.S.; modifying
4 definitions; defining the terms "comprehensive
5 treatment plan" and "service provider";
6 amending s. 394.4598, F.S.; providing for the
7 guardian advocate to consent to medication in
8 certain circumstances; amending s. 394.463,
9 F.S.; providing additional criteria for
10 involuntary examination at a mental health
11 receiving facility; authorizing certain law
12 enforcement actions to enforce an outpatient
13 treatment order; providing requirements for
14 recordkeeping and reporting of such orders by
15 the Agency for Health Care Administration;
16 amending s. 394.467, F.S.; providing additional
17 criteria for involuntary placement for mental
18 health treatment; providing for inpatient or
19 outpatient treatment; revising provisions
20 relating to the court's treatment order at a
21 hearing on involuntary placement; requiring an
22 order for outpatient treatment to include
23 requirements for the provision of services and
24 procedures in the event of patient
25 noncompliance; providing for waiver of the time
26 periods for the hearing on involuntary
27 placement if a voluntary agreement to treatment
28 is obtained; providing requirements for a
29 court-approved treatment plan under such
30 voluntary treatment agreement; providing
31 procedures for hearings in the event of

1 noncompliance with treatment according to the
2 agreement; clarifying provisions relating to
3 hearings for continued involuntary placement;
4 reenacting ss. 394.67(18), 394.674(2),
5 394.492(5) and (6), 984.19(4), and
6 985.211(2)(d), F.S., to incorporate the
7 amendments to ss. 394.463(1) and 394.67, F.S.,
8 in cross-references; providing an effective
9 date.

10

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

12

13 Section 1. Subsections (3), (26), and (30) of section
14 394.455, Florida Statutes, are amended, and subsections (31)
15 and (32) are added to that section, to read:

16 394.455 Definitions.--As used in this part, unless the
17 context clearly requires otherwise, the term:

18 (3) "Clinical record" means all parts of the record
19 required to be maintained and includes all medical records,
20 progress notes, charts, and admission and discharge data, and
21 all other information recorded by a facility which pertains to
22 the patient's hospitalization or ~~and~~ treatment.

23 (26) "Receiving facility" means any public or private
24 facility designated by the department to receive and hold
25 involuntary patients under emergency conditions or for
26 psychiatric evaluation and to provide short-term inpatient or
27 outpatient treatment. The term does not include a county jail.

28 (30) "Treatment facility" means any state-owned,
29 state-operated, or state-supported hospital, center, or clinic
30 designated by the department for extended inpatient or
31 outpatient treatment ~~and hospitalization~~, beyond that provided

1 for by a receiving facility, of persons who have a mental
2 illness, including facilities of the United States Government,
3 and any private facility designated by the department when
4 rendering such services to a person pursuant to the provisions
5 of this part. Patients treated in facilities of the United
6 States Government shall be solely those whose care is the
7 responsibility of the United States Department of Veterans
8 Affairs.

9 (31) "Comprehensive treatment plan" means a behavioral
10 description of the problems being addressed which is based on
11 professional evaluations or assessments; a description of the
12 services or treatment to be provided to the patient which
13 address the identified problems, including the type of
14 services or treatment, the frequency and duration of services
15 or treatment, the location at which the services or treatment
16 are to be provided, and the name of each accountable provider
17 of services or treatment; and a description of the measurable
18 objectives of treatment, which, if met, will result in
19 measurable improvements of the condition of the patient.

20 (32) "Service provider" means a publicly funded or
21 private not-for-profit mental health provider that meets the
22 requirements set forth in s. 394.459 and provides 24-hour,
23 7-day-a-week on-call and onsite services.

24 Section 2. Subsection (6) of section 394.4598, Florida
25 Statutes, is amended to read:

26 394.4598 Guardian advocate.--

27 (6) If a guardian with the authority to consent to
28 medical treatment has not already been appointed or if the
29 patient has not already designated a health care surrogate,
30 the court may authorize the guardian advocate to consent to
31 medical treatment, as well as mental health treatment. Unless

1 otherwise limited by the court, a guardian advocate with
2 authority to consent to medical treatment shall have the same
3 authority to make health care decisions and be subject to the
4 same restrictions as a proxy appointed under part IV of
5 chapter 765. If the patient has an involuntary outpatient
6 placement order that includes medication and the patient
7 refuses medication, the guardian advocate may consent to
8 administration of medication over the patient's objection only
9 if the patient is in a receiving facility or a treatment
10 facility.Unless the guardian advocate has sought and received
11 express court approval in proceeding separate from the
12 proceeding to determine the competence of the patient to
13 consent to medical treatment, the guardian advocate may not
14 consent to:

- 15 (a) Abortion.
- 16 (b) Sterilization.
- 17 (c) Electroconvulsive treatment.
- 18 (d) Psychosurgery.
- 19 (e) Experimental treatments that have not been
20 approved by a federally approved institutional review board in
21 accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56.

22
23 The court must base its decision on evidence that the
24 treatment or procedure is essential to the care of the patient
25 and that the treatment does not present an unreasonable risk
26 of serious, hazardous, or irreversible side effects. The court
27 shall follow the procedures set forth in subsection (1) of
28 this section.

29 Section 3. Subsection (1) and paragraphs (c), (d), and
30 (e) of subsection (2) of section 394.463, Florida Statutes,
31 are amended to read:

1 394.463 Involuntary examination.--
2 (1) CRITERIA.--A person may be taken to a receiving
3 facility for involuntary examination if there is reason to
4 believe that he or she is mentally ill and because of his or
5 her mental illness, including consideration of the person's
6 relevant medical and treatment history:
7 (a)1. The person has refused voluntary examination
8 after conscientious explanation and disclosure of the purpose
9 of the examination; or
10 2. The person is unable to determine for himself or
11 herself whether examination is necessary; and
12 (b)1. Without care or treatment, the person is likely
13 to suffer from neglect or refuse to care for himself or
14 herself; such neglect or refusal poses a real and present
15 threat of substantial harm to his or her well-being; and it is
16 not apparent that such harm may be avoided through the help of
17 willing family members or friends or the provision of other
18 services; ~~or~~
19 2. There is a substantial likelihood that without care
20 or treatment the person will cause serious bodily harm to
21 himself or herself or others in the near future, as evidenced
22 by recent behavior; ~~or~~—
23 3. That the person is 18 years of age or older and,
24 based on current symptoms, there is a substantial likelihood
25 that the person's present condition will deteriorate to the
26 point that the person, in the reasonably foreseeable future,
27 will meet the criteria described in subparagraph 1. or
28 subparagraph 2., based on a well-established history of
29 either:
30 a. Two or more prior acute episodes of mental illness
31 in the previous 36 months which have resulted in self-neglect,

1 dangerousness to self or others, or arrest for criminal
2 behavior; or

3 b. At least one prior acute episode that resulted in
4 physical violence.

5 (2) INVOLUNTARY EXAMINATION.--

6 (c) A law enforcement officer acting in accordance
7 with an ex parte order issued pursuant to this subsection or a
8 treatment order issued pursuant to s. 394.467(6)(b)3. may
9 serve and execute such order on any day of the week, at any
10 time of the day or night.

11 (d) A law enforcement officer acting in accordance
12 with an ex parte order issued pursuant to this subsection or a
13 treatment order issued pursuant to s. 394.467(6)(b)3. may use
14 such reasonable physical force as is necessary to gain entry
15 to the premises, and any dwellings, buildings, or other
16 structures located on the premises, and to take custody of the
17 person who is the subject of the ~~ex parte~~ order.

18 (e) The Agency for Health Care Administration shall
19 receive and maintain the copies of ex parte orders, treatment
20 orders issued pursuant to s. 394.467(6)(b)3., professional
21 certificates, and law enforcement officers' reports. These
22 documents shall be considered part of the clinical record,
23 governed by the provisions of s. 394.4615. The agency shall
24 prepare annual reports analyzing the data obtained from these
25 documents, without information identifying patients, and shall
26 provide copies of reports to the department, the President of
27 the Senate, the Speaker of the House of Representatives, and
28 the minority leaders of the Senate and the House of
29 Representatives.

30 Section 4. Subsections (1), (2), and (3), paragraphs
31 (a), (b), and (d) of subsection (6), and paragraphs (b) and

1 (d) of present subsection (7) of section 394.467, Florida
2 Statutes, are amended, present subsections (7) and (8) are
3 renumbered as subsections (8) and (9), respectively, and a new
4 subsection (7) is added to that section, to read:

5 394.467 Involuntary placement.--

6 (1) CRITERIA.--A person may be involuntarily placed in
7 inpatient or outpatient ~~for~~ treatment upon a finding of the
8 court, the determination of which shall include consideration
9 of the person's relevant medical and treatment history, that
10 by clear and convincing evidence ~~that~~:

11 (a) He or she is mentally ill and because of his or
12 her mental illness:

13 1.a. He or she has refused voluntary placement for
14 treatment after sufficient and conscientious explanation and
15 disclosure of the purpose of placement for treatment; or

16 b. He or she is unable to determine for himself or
17 herself whether placement is necessary; and

18 2.a. He or she is manifestly incapable of surviving
19 alone or with the help of willing and responsible family or
20 friends, including available alternative services, and,
21 without treatment, is likely to suffer from neglect or refuse
22 to care for himself or herself, and such neglect or refusal
23 poses a real and present threat of substantial harm to his or
24 her well-being; ~~or~~

25 b. There is substantial likelihood that in the near
26 future he or she will inflict serious bodily harm on himself
27 or herself or another person, as evidenced by recent behavior
28 causing, attempting, or threatening such harm; or ~~and~~

29 c. That the person is 18 years of age or older and,
30 based on current symptoms, there is a substantial likelihood
31 that the person's present condition will deteriorate to the

1 point that the person, in the reasonably foreseeable future,
2 will meet the criteria described in sub-subparagraph a. or
3 sub-subparagraph b., based on a well-established history of
4 either:

5 (I) Two or more prior acute episodes of mental illness
6 in the previous 36 months which have resulted in self-neglect,
7 dangerousness to self or others, or arrest for criminal
8 behavior; or

9 (II) At least one prior acute episode that resulted in
10 physical violence; and

11 (b) All available less restrictive treatment
12 alternatives which would offer an opportunity for improvement
13 of his or her condition have been judged to be inappropriate.

14
15 Involuntary placement based solely on criteria set forth in
16 sub-subparagraph (a)2.c. may be made only to outpatient
17 treatment.

18 (2) INVOLUNTARY PLACEMENT CERTIFICATE ~~ADMISSION TO A~~
19 ~~TREATMENT FACILITY.--~~

20 (a) A patient may be retained by a receiving facility
21 or involuntarily placed in a treatment facility upon the
22 recommendation of the administrator of a receiving facility
23 where the patient has been examined and after adherence to the
24 notice and hearing procedures provided in s. 394.4599. The
25 recommendation must be supported by the opinion of a
26 psychiatrist and the second opinion of a clinical psychologist
27 or another psychiatrist, both of whom have personally examined
28 the patient within the preceding 72 hours, that the criteria
29 for involuntary placement are met. However, in counties of
30 less than 50,000 population, if the administrator certifies
31 that no psychiatrist or clinical psychologist is available to

1 provide the second opinion, such second opinion may be
2 provided by a licensed physician with postgraduate training
3 and experience in diagnosis and treatment of mental and
4 nervous disorders or by a psychiatric nurse. Such
5 recommendation shall be entered on an involuntary placement
6 certificate, which certificate shall authorize the receiving
7 facility to retain the patient pending transfer to a treatment
8 facility or completion of a hearing.

9 (b) A patient may agree to be evaluated on an
10 outpatient basis for an involuntary outpatient placement
11 certificate. The certificate must be supported by the opinion
12 of a psychiatrist and the second opinion of a clinical
13 psychologist or another psychiatrist, both of whom have
14 personally examined the patient within the preceding 72 hours,
15 that the criteria for involuntary outpatient placement are
16 met. However, in counties of less than 50,000 population, if
17 the psychiatrist certifies that no psychiatrist or clinical
18 psychologist is available to provide the second opinion, the
19 second opinion may be provided by a licensed physician who has
20 had postgraduate training and experience in the diagnosis and
21 treatment of mental and nervous disorders or by a psychiatric
22 nurse.

23 (3) PETITION FOR INVOLUNTARY PLACEMENT.--The
24 administrator of the facility shall file the petition for
25 involuntary inpatient or outpatient placement pursuant to
26 paragraph (2)(a), or any responsible adult may file a petition
27 for involuntary outpatient placement based on a certificate
28 for involuntary placement pursuant to paragraph (2)(b) for
29 persons evaluated on a voluntary outpatient basis ~~a petition~~
30 ~~for involuntary placement in the court in the county where the~~
31 ~~patient is located.~~ The petition for involuntary placement

1 must include the certificate and must be filed in the county
2 where the patient is located. Upon filing, the clerk of the
3 court shall provide copies to the department, the patient, the
4 patient's guardian or representative, and the state attorney
5 and public defender of the judicial circuit in which the
6 patient is located. No fee shall be charged for the filing of
7 a petition under this subsection.

8 (6) HEARING ON INVOLUNTARY PLACEMENT.--

9 (a)1. The court shall hold the hearing on involuntary
10 placement within 5 days, unless a continuance is granted. The
11 hearing shall be held in the county where the patient is
12 located and shall be as convenient to the patient as may be
13 consistent with orderly procedure and shall be conducted in
14 physical settings not likely to be injurious to the patient's
15 condition. If the court finds that the patient's attendance
16 at the hearing is not consistent with the best interests of
17 the patient, and the patient's counsel does not object, the
18 court may waive the presence of the patient from all or any
19 portion of the hearing. The state attorney for the circuit in
20 which the patient is located shall represent the state, rather
21 than the petitioning facility administrator, as the real party
22 in interest in the proceeding.

23 2. The court may appoint a master to preside at the
24 hearing. One of the professionals who executed the involuntary
25 placement certificate shall be a witness. The patient and the
26 patient's guardian or representative shall be informed by the
27 court of the right to an independent expert examination. If
28 the patient cannot afford such an examination, the court shall
29 provide for one. The independent expert's report shall be
30 confidential and not discoverable, unless the expert is to be
31 called as a witness for the patient at the hearing. The

1 testimony in the hearing must be given under oath, and the
2 proceedings must be recorded. The patient may refuse to
3 testify at the hearing. The court shall allow relevant
4 testimony from individuals, including family members,
5 regarding the person's prior history and how that prior
6 history relates to the person's current condition.

7 (b)1. If the court concludes that the patient meets
8 the criteria for involuntary inpatient placement under
9 sub-subparagraph (1)(a)2.a. or sub-subparagraph (1)(a)2.b., it
10 shall order that the patient be transferred to a treatment
11 facility or, if the patient is at a treatment facility, that
12 the patient be retained there or be treated at any other
13 appropriate receiving or treatment facility, or that the
14 patient receive services from a receiving or treatment
15 facility, on an involuntary basis, for a period of up to 6
16 months. If the court concludes that the patient meets the
17 criteria for outpatient placement under sub-subparagraph
18 (1)(a)2.a., sub-subparagraph (1)(a)2.b., or sub-subparagraph
19 (1)(a)2.c., the court shall issue an order for outpatient
20 treatment for a period of up to 6 months.~~The order shall~~
21 ~~specify the nature and extent of the patient's mental illness.~~
22 The facility shall discharge a patient any time the patient no
23 longer meets the criteria for involuntary placement, unless
24 the patient has transferred to voluntary status.

25 2. The treatment order shall specify the nature and
26 extent of the patient's mental illness and whether treatment
27 shall be on an inpatient or outpatient basis. The court order
28 must be based on the comprehensive treatment plan, as defined
29 in s. 394.455, developed by the service provider, as defined
30 in s. 394.455, and the patient or the patient's guardian or
31 guardian advocate, which describes the treatment and support

1 needs of the patient and the services that are readily
2 available in the community for the patient. An order for
3 outpatient treatment may include provisions for case
4 management, intensive case management, assertive community
5 treatment, or a program for assertive community treatment. The
6 order may also require that the patient make use of a service
7 provider to supply any or all of the following categories of
8 services to the patient, if the services are available:
9 medication; periodic urinalysis to determine compliance with
10 treatment; individual or group therapy; day or partial day
11 program activities; educational and vocational training or
12 activities; alcohol or substance abuse treatment and
13 counseling and periodic tests for the presence of alcohol or
14 illegal drugs for persons with a history of alcohol or
15 substance abuse; supervision of living arrangements; and any
16 other services prescribed to treat the person's mental illness
17 and to assist the person in living and functioning in the
18 community or attempt to prevent a relapse or deterioration.
19 The services ordered shall be deemed to be clinically
20 appropriate by a physician, clinical psychologist, psychiatric
21 nurse, or social worker who consults with, or is employed or
22 contracted by, the service provider that will have primary
23 responsibility for service provision under the order. The
24 service provider will certify to the court that the ordered
25 services are currently available. Any material modifications
26 of the provisions of the treatment order to which the patient
27 does not agree must be approved by the court. The court may
28 not order outpatient treatment unless the patient has
29 sufficient support, services, or opportunity for improvement
30 and stabilization. The court shall specify in the final order
31 of disposition if outpatient treatment could not be ordered

1 because of lack of support, services, or opportunity for
2 improvement and stabilization, and a copy of the order must be
3 sent to the Agency for Health Care Administration.

4 3. The treatment order shall specify that if the
5 patient fails to comply with the outpatient treatment order
6 and meets the criteria for involuntary examination under s.
7 394.463(1), the patient shall be brought to a receiving
8 facility for involuntary examination pursuant to s.
9 394.463(2)(c)-(i), in order to determine whether the
10 outpatient placement is still the least restrictive treatment
11 alternative which would offer an opportunity for improvement
12 of his or her condition. Failure to comply with an outpatient
13 treatment order shall not be grounds for involuntary civil
14 commitment or a finding of contempt of court.

15 (d) At the hearing on involuntary placement, the court
16 shall consider testimony and evidence regarding the patient's
17 competence to consent to treatment. If the court finds that
18 the patient is incompetent to consent to treatment, it shall
19 appoint a guardian advocate as provided in s. 394.4598. If the
20 patient has an involuntary outpatient placement order that
21 includes medication and the patient refuses medication, the
22 guardian advocate can consent to administration of medication
23 over the patient's objection only if the patient is in a
24 receiving facility or a treatment facility.

25 (7) VOLUNTARY TREATMENT AGREEMENT.--

26 (a) If the court finds that a person who is 18 years
27 of age or older is competent to enter into a voluntary
28 treatment agreement, the person, or his or her legal counsel
29 with the person's consent, may waive the time periods for the
30 hearing under this section for a period not to exceed 90 days
31 from the date of the waiver, if the person and the state

1 attorney designated under paragraph (6)(a) agree at any time
2 after the commencement of the proceedings that the person
3 shall obtain treatment under a voluntary treatment agreement.
4 The voluntary treatment agreement shall be in writing, shall
5 be approved by the court, and shall include a comprehensive
6 treatment plan, as defined in s. 394.455, which provides for
7 treatment in the least restrictive manner consistent with the
8 needs of the patient. Either party may request the court to
9 modify the treatment plan at any time during the 90-day
10 period. The court shall designate the service provider to
11 monitor the patient's treatment under, and compliance with,
12 the voluntary treatment agreement.

13 (b)1. If the patient fails to comply with the
14 treatment according to the agreement, the designated service
15 provider shall notify the counsel designated under paragraph
16 (6)(a) and the patient's counsel of the patient's
17 noncompliance. If, within 90 days after the date of the waiver
18 under this subsection, the patient fails to comply with the
19 voluntary treatment agreement approved by the court under this
20 subsection, the counsel designated under paragraph (6)(a) may
21 file with the court a statement of facts which constitute the
22 basis for the belief that the patient is not in compliance.

23 2. Upon receipt of the statement of noncompliance, the
24 court shall issue a notice of hearing as set forth in s.
25 394.4599 and proceed with the hearing on involuntary placement
26 pursuant to paragraph (6). The facts alleged as the basis for
27 involuntary placement prior to the waiver of the time periods
28 for hearing may be the basis for a final disposition at a
29 hearing under this subparagraph.

30 (c) The subject person may file a motion requesting
31 that the issue of noncompliance with the agreement be heard at

1 the involuntary placement hearing held under subparagraph
2 (b)2. The motion must be filed at least 72 hours, excluding
3 weekends and holidays, before the hearing. The burden of
4 proving noncompliance shall be by a preponderance of the
5 evidence.

6 (8)~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY
7 PLACEMENT.--

8 (b) If the patient continues to meet the criteria for
9 involuntary placement, the administrator or service provider
10 shall, prior to the expiration of the period during which
11 treatment is ordered for the treatment facility is authorized
12 ~~to retain~~ the patient, file a petition requesting
13 authorization for continued involuntary placement. The
14 request shall be accompanied by a statement from the patient's
15 physician or clinical psychologist justifying the request, a
16 brief description of the patient's treatment during the time
17 he or she was involuntarily placed, and an individualized plan
18 of continued treatment. Notice of the hearing shall be
19 provided as set forth in s. 394.4599. If at the hearing the
20 hearing officer finds that attendance at the hearing is not
21 consistent with the best interests of the patient, the hearing
22 officer may waive the presence of the patient from all or any
23 portion of the hearing, unless the patient, through counsel,
24 objects to the waiver of presence. The testimony in the
25 hearing must be under oath, and the proceedings must be
26 recorded.

27 (d) If at a hearing it is shown that the patient
28 continues to meet the criteria for involuntary placement, the
29 administrative law judge shall sign the order for continued
30 involuntary placement for a period not to exceed 6 months.
31 The same procedure shall be repeated prior to the expiration

1 of each additional period the patient is placed in treatment
2 retained.

3 Section 5. For the purpose of incorporating the
4 amendments to section 394.463, Florida Statutes, in references
5 thereto, subsection (18) of section 394.67, Florida Statutes,
6 is reenacted to read:

7 394.67 Definitions.--As used in this part, the term:

8 (18) "Person who is experiencing an acute mental or
9 emotional crisis" means a child, adolescent, or adult who is
10 experiencing a psychotic episode or a high level of mental or
11 emotional distress which may be precipitated by a traumatic
12 event or a perceived life problem for which the individual's
13 typical coping strategies are inadequate. The term includes an
14 individual who meets the criteria for involuntary examination
15 specified in s. 394.463(1).

16 Section 6. For the purpose of incorporating the
17 amendments to section 394.463, Florida Statutes, in references
18 thereto, subsection (2) of section 394.674, Florida Statutes,
19 is reenacted to read:

20 394.674 Clinical eligibility for publicly funded
21 substance abuse and mental health services; fee collection
22 requirements.--

23 (2) Crisis services, as defined in s. 394.67, must,
24 within the limitations of available state and local matching
25 resources, be available to each person who is eligible for
26 services under subsection (1), regardless of the person's
27 ability to pay for such services. A person who is experiencing
28 a mental health crisis and who does not meet the criteria for
29 involuntary examination under s. 394.463(1), or a person who
30 is experiencing a substance abuse crisis and who does not meet
31 the involuntary admission criteria in s. 397.675, must

1 contribute to the cost of his or her care and treatment
2 pursuant to the sliding fee scale developed under subsection
3 (4), unless charging a fee is contraindicated because of the
4 crisis situation.

5 Section 7. For the purpose of incorporating the
6 amendments to section 394.467, Florida Statutes, in references
7 thereto, subsections (5) and (6) of section 394.492, Florida
8 Statutes, are reenacted to read:

9 394.492 Definitions.--As used in ss. 394.490-394.497,
10 the term:

11 (5) "Child or adolescent who has an emotional
12 disturbance" means a person under 18 years of age who is
13 diagnosed with a mental, emotional, or behavioral disorder of
14 sufficient duration to meet one of the diagnostic categories
15 specified in the most recent edition of the Diagnostic and
16 Statistical Manual of the American Psychiatric Association,
17 but who does not exhibit behaviors that substantially
18 interfere with or limit his or her role or ability to function
19 in the family, school, or community. The emotional disturbance
20 must not be considered to be a temporary response to a
21 stressful situation. The term does not include a child or
22 adolescent who meets the criteria for involuntary placement
23 under s. 394.467(1).

24 (6) "Child or adolescent who has a serious emotional
25 disturbance or mental illness" means a person under 18 years
26 of age who:

27 (a) Is diagnosed as having a mental, emotional, or
28 behavioral disorder that meets one of the diagnostic
29 categories specified in the most recent edition of the
30 Diagnostic and Statistical Manual of Mental Disorders of the
31 American Psychiatric Association; and

1 (b) Exhibits behaviors that substantially interfere
2 with or limit his or her role or ability to function in the
3 family, school, or community, which behaviors are not
4 considered to be a temporary response to a stressful
5 situation.

6
7 The term includes a child or adolescent who meets the criteria
8 for involuntary placement under s. 394.467(1).

9 Section 8. For the purpose of incorporating the
10 amendments to sections 394.463 and 394.467, Florida Statutes,
11 in references thereto, subsection (4) of section 984.19,
12 Florida Statutes, is reenacted to read:

13 984.19 Medical, psychiatric, and psychological
14 examination and treatment of child; physical or mental
15 examination of parent, guardian, or person requesting custody
16 of child.--

17 (4) A judge may order that a child alleged to be or
18 adjudicated a child in need of services be treated by a
19 licensed health care professional. The judge may also order
20 such child to receive mental health or retardation services
21 from a psychiatrist, psychologist, or other appropriate
22 service provider. If it is necessary to place the child in a
23 residential facility for such services, then the procedures
24 and criteria established in s. 394.467 or chapter 393 shall be
25 used, whichever is applicable. A child may be provided mental
26 health or retardation services in emergency situations,
27 pursuant to the procedures and criteria contained in s.
28 394.463(1) or chapter 393, whichever is applicable.

29 Section 9. For the purpose of incorporating the
30 amendments to section 394.463, Florida Statutes, in references
31

1 thereto, paragraph (d) of subsection (2) of section 985.211,
2 Florida Statutes, is reenacted to read:

3 985.211 Release or delivery from custody.--

4 (2) Unless otherwise ordered by the court pursuant to
5 s. 985.215, and unless there is a need to hold the child, a
6 person taking a child into custody shall attempt to release
7 the child as follows:

8 (d) If the child is believed to be mentally ill as
9 defined in s. 394.463(1), to a law enforcement officer who
10 shall take the child to a designated public receiving facility
11 as defined in s. 394.455 for examination pursuant to the
12 provisions of s. 394.463.

13 Section 10. This act shall take effect July 1, 2002.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2030

4
5 Specifies that involuntary outpatient treatment may be ordered
6 for persons 18 years of age or older only;

7 Modifies the criteria for persons who are taken to a Baker Act
8 receiving facility for an involuntary psychiatric examination
9 and the criteria for involuntary placement by the court in a
10 mental health treatment or receiving facility to include
11 consideration of a person's relevant medical and treatment
12 history;

13 Adds a third standard for involuntary examination and
14 involuntary placement allowing consideration of a well
15 established history of either:

16 two or more acute episodes of mental illness in the
17 previous 36 months that resulted in self-neglect,
18 dangerousness to self or others or arrest for criminal
19 behavior, or

20 at least one prior acute episode resulting in physical
21 violence;

22 States that the court may only order outpatient treatment for
23 those persons whose involuntary placement is based solely on
24 the new criteria;

25 States that the court order for outplacement treatment must be
26 based on a comprehensive treatment plan developed by the
27 service provider and the patient that describes the patient's
28 needs and readily available treatment and support services;

29 Requires that, prior to involuntary outpatient placement, the
30 service provider certify to the court that the ordered
31 services are currently available;

Requires that a patient who does not comply with the court
order for outpatient treatment may be transported to a Baker
Act receiving facility to determine if outpatient placement
continues to be the least restrictive treatment alternative.
Failure to comply with an outpatient treatment order would not
be grounds for contempt of court; and

Specifies that a guardian advocate be appointed to consent to
administration of medication over the patient's objection only
if the patient is in a receiving or treatment facility.