

Bill No. SB 1850

Barcode 854728

CHAMBER ACTION

Senate

House

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The Committee on Children and Families (Rich) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 1, between lines 24 and 25,

insert:

Section 1. Subsection (34) is added to section 394.455, Florida Statutes, to read:

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

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

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

394.463 Involuntary examination.--

(2) INVOLUNTARY EXAMINATION.--

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

1. A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary

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

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

28           3. A physician, clinical psychologist, psychiatric  
 29 nurse, mental health counselor, marriage and family therapist,  
 30 or clinical social worker may execute a certificate stating  
 31 that he or she has examined a person within the preceding 48

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

15 Section 3. Paragraphs (a) and (c) of subsection (2) of  
 16 section 394.4655, Florida Statutes, are amended to read:

17 394.4655 Involuntary outpatient placement.--

18 (2) INVOLUNTARY OUTPATIENT PLACEMENT.--

19 (a)1. A patient may be retained by a receiving  
 20 facility upon the recommendation of the administrator of a  
 21 receiving facility where the patient has been examined and  
 22 after adherence to the notice of hearing procedures provided  
 23 in s. 394.4599. The recommendation must be supported by the  
 24 opinion of a psychiatrist and the second opinion of a clinical  
 25 psychologist or another psychiatrist, both of whom have  
 26 personally examined the patient within the preceding 72 hours,  
 27 that the criteria for involuntary outpatient placement are  
 28 met. However, in a county having a population of fewer than  
 29 50,000, if the administrator certifies that no psychiatrist or  
 30 clinical psychologist is available to provide the second  
 31 opinion, the second opinion may be provided by a licensed

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1 physician who has postgraduate training and experience in  
 2 diagnosis and treatment of mental and nervous disorders or by  
 3 a psychiatric nurse as defined in this chapter. Such a  
 4 recommendation must be entered on an involuntary outpatient  
 5 placement certificate, which certificate must authorize the  
 6 receiving facility to retain the patient pending completion of  
 7 a hearing. The certificate shall be made a part of the  
 8 patient's clinical record.

9           2. If the patient has been stabilized and no longer  
 10 meets the criteria for involuntary examination pursuant to s.  
 11 394.463(1), the patient must be released from the receiving  
 12 facility while awaiting the hearing for involuntary outpatient  
 13 placement. Prior to filing a petition for involuntary  
 14 outpatient treatment, the administrator of a receiving  
 15 facility or a designated department representative shall  
 16 identify the service provider that will have primary  
 17 responsibility for service provision under an order for  
 18 involuntary outpatient placement, unless the person is  
 19 otherwise participating in outpatient psychiatric treatment  
 20 and is not in need of public financing for that treatment, in  
 21 which case the individual, if eligible, may be ordered to  
 22 involuntary treatment pursuant to the existing psychiatric  
 23 treatment relationship.

24           3. The service provider shall prepare a written  
 25 proposed treatment plan in consultation with the patient or  
 26 the patient's guardian advocate, if appointed, for the court's  
 27 consideration for inclusion in the involuntary outpatient  
 28 placement order. The service provider shall also provide a  
 29 copy of the proposed treatment plan to the patient and the  
 30 administrator of the receiving facility. The treatment plan  
 31 must specify the nature and extent of the patient's mental

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1 illness. The treatment plan must address the reduction of  
 2 symptoms that necessitate involuntary outpatient placement and  
 3 include measurable goals and objectives for the services and  
 4 treatment that are provided to treat the person's mental  
 5 illness and to assist the person in living and functioning in  
 6 the community or to attempt to prevent a relapse or  
 7 deterioration. Service providers may select and provide  
 8 supervision to other individuals to implement specific aspects  
 9 of the treatment plan. The services in the treatment plan must  
 10 be deemed to be clinically appropriate by a physician,  
 11 clinical psychologist, psychiatric nurse, marriage and family  
 12 therapist, or clinical social worker, as defined in this  
 13 chapter, who consults with, or is employed or contracted by,  
 14 the service provider. The service provider must certify to the  
 15 court in the proposed treatment plan whether sufficient  
 16 services for improvement and stabilization are currently  
 17 available and whether the service provider agrees to provide  
 18 those services. If the service provider certifies that the  
 19 services in the proposed treatment plan are not available, the  
 20 petitioner may not file the petition.

21 (c)1. The administrator of the treatment facility  
 22 shall provide a copy of the involuntary outpatient placement  
 23 certificate and a copy of the state mental health discharge  
 24 form to a department representative in the county where the  
 25 patient will be residing. For persons who are leaving a state  
 26 mental health treatment facility, the petition for involuntary  
 27 outpatient placement must be filed in the county where the  
 28 patient will be residing.

29 2. The service provider that will have primary  
 30 responsibility for service provision shall be identified by  
 31 the designated department representative prior to the order

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1 for involuntary outpatient placement and must, prior to filing  
 2 a petition for involuntary outpatient placement, certify to  
 3 the court whether the services recommended in the patient's  
 4 discharge plan are available in the local community and  
 5 whether the service provider agrees to provide those services.  
 6 The service provider must develop with the patient, or the  
 7 patient's guardian advocate, if appointed, a treatment or  
 8 service plan that addresses the needs identified in the  
 9 discharge plan. The plan must be deemed to be clinically  
 10 appropriate by a physician, clinical psychologist, psychiatric  
 11 nurse, marriage and family therapist, or clinical social  
 12 worker, as defined in this chapter, who consults with, or is  
 13 employed or contracted by, the service provider.

14         3. If the service provider certifies that the services  
 15 in the proposed treatment or service plan are not available,  
 16 the petitioner may not file the petition.

17         Section 4. Paragraph (e) of subsection (6) of section  
 18 394.467, Florida Statutes, is amended to read:

19         394.467 Involuntary inpatient placement.--

20         (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.--

21         (e) The administrator of the receiving facility shall  
 22 provide a copy of the court order and adequate documentation  
 23 of a patient's mental illness to the administrator of a  
 24 treatment facility whenever a patient is ordered for  
 25 involuntary inpatient placement, whether by civil or criminal  
 26 court. ~~The~~ ~~Such~~ documentation shall include any advance  
 27 directives made by the patient, a psychiatric evaluation of  
 28 the patient, and any evaluations of the patient performed by a  
 29 clinical psychologist, a marriage and family therapist, or a  
 30 clinical social worker. The administrator of a treatment  
 31 facility may refuse admission to any patient directed to its

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1 facilities on an involuntary basis, whether by civil or  
2 criminal court order, who is not accompanied at the same time  
3 by adequate orders and documentation.

4  
5 (Redesignate subsequent sections.)

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8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 1, line 3, after the semicolon,

11  
12 insert:

13 amending s. 394.455, F.S.; defining the term  
14 "marriage and family therapist"; amending s.  
15 394.463, F.S.; providing that a marriage and  
16 family therapist may execute a certificate for  
17 involuntary examination; amending s. 394.4655,  
18 F.S.; providing that a marriage and family  
19 therapist may deem a services treatment plan  
20 clinically appropriate for an involuntary  
21 outpatient placement; amending s. 394.467,  
22 F.S.; requiring that documentation of any  
23 evaluation performed by a marriage and family  
24 therapist be provided when a patient is ordered  
25 for involuntary inpatient placement;

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