

Bill No. SB 1850

Barcode 975036

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 (31) of section 394.455, Florida Statutes, is amended, and subsections (34) and (35) are added to that section, to read:

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

(31) "Service provider" means any public or private receiving facility, an entity under contract with the Department of Children and Family Services to provide mental health services, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician, psychiatric nurse as defined in subsection (23), or a community mental health center or clinic as defined in this part.

(34) "Marriage and family therapist" means a person

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1 licensed as a marriage and family therapist under chapter 491.

2 (35) "Mental health counselor" means a person licensed  
3 as a mental health counselor under chapter 491.

4 Section 2. Paragraph (a) of subsection (2) of section  
5 394.463, Florida Statutes, is amended to read:

6 394.463 Involuntary examination.--

7 (2) INVOLUNTARY EXAMINATION.--

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

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

29 2. A law enforcement officer shall take a person who  
30 appears to meet the criteria for involuntary examination into  
31 custody and deliver the person or have him or her delivered to

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1 the nearest receiving facility for examination. The officer  
 2 shall execute a written report detailing the circumstances  
 3 under which the person was taken into custody, and the report  
 4 shall be made a part of the patient's clinical record. Any  
 5 receiving facility accepting the patient based on this report  
 6 must send a copy of the report to the Agency for Health Care  
 7 Administration on the next working day.

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

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

28           394.4655 Involuntary outpatient placement.--

29           (2) INVOLUNTARY OUTPATIENT PLACEMENT.--

30           (a)1. A patient may be retained by a receiving  
 31 facility upon the recommendation of the administrator of a

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1 receiving facility where the patient has been examined and  
 2 after adherence to the notice of hearing procedures provided  
 3 in s. 394.4599. The recommendation must be supported by the  
 4 opinion of a psychiatrist and the second opinion of a clinical  
 5 psychologist or another psychiatrist, both of whom have  
 6 personally examined the patient within the preceding 72 hours,  
 7 that the criteria for involuntary outpatient placement are  
 8 met. However, in a county having a population of fewer than  
 9 50,000, if the administrator certifies that no psychiatrist or  
 10 clinical psychologist is available to provide the second  
 11 opinion, the second opinion may be provided by a licensed  
 12 physician who has postgraduate training and experience in  
 13 diagnosis and treatment of mental and nervous disorders or by  
 14 a psychiatric nurse as defined in this chapter. Such a  
 15 recommendation must be entered on an involuntary outpatient  
 16 placement certificate, which certificate must authorize the  
 17 receiving facility to retain the patient pending completion of  
 18 a hearing. The certificate shall be made a part of the  
 19 patient's clinical record.

20           2. If the patient has been stabilized and no longer  
 21 meets the criteria for involuntary examination pursuant to s.  
 22 394.463(1), the patient must be released from the receiving  
 23 facility while awaiting the hearing for involuntary outpatient  
 24 placement. Prior to filing a petition for involuntary  
 25 outpatient treatment, the administrator of a receiving  
 26 facility or a designated department representative shall  
 27 identify the service provider that will have primary  
 28 responsibility for service provision under an order for  
 29 involuntary outpatient placement, unless the person is  
 30 otherwise participating in outpatient psychiatric treatment  
 31 and is not in need of public financing for that treatment, in

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1 which case the individual, if eligible, may be ordered to  
2 involuntary treatment pursuant to the existing psychiatric  
3 treatment relationship.

4           3. The service provider shall prepare a written  
5 proposed treatment plan in consultation with the patient or  
6 the patient's guardian advocate, if appointed, for the court's  
7 consideration for inclusion in the involuntary outpatient  
8 placement order. The service provider shall also provide a  
9 copy of the proposed treatment plan to the patient and the  
10 administrator of the receiving facility. The treatment plan  
11 must specify the nature and extent of the patient's mental  
12 illness. The treatment plan must address the reduction of  
13 symptoms that necessitate involuntary outpatient placement and  
14 include measurable goals and objectives for the services and  
15 treatment that are provided to treat the person's mental  
16 illness and to assist the person in living and functioning in  
17 the community or to attempt to prevent a relapse or  
18 deterioration. Service providers may select and provide  
19 supervision to other individuals to implement specific aspects  
20 of the treatment plan. The services in the treatment plan must  
21 be deemed to be clinically appropriate by a physician,  
22 clinical psychologist, psychiatric nurse, mental health  
23 counselor, marriage and family therapist, or clinical social  
24 worker, as defined in this chapter, who consults with, or is  
25 employed or contracted by, the service provider. The service  
26 provider must certify to the court in the proposed treatment  
27 plan whether sufficient services for improvement and  
28 stabilization are currently available and whether the service  
29 provider agrees to provide those services. If the service  
30 provider certifies that the services in the proposed treatment  
31 plan are not available, the petitioner may not file the

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1 petition.

2 (c)1. The administrator of the treatment facility  
 3 shall provide a copy of the involuntary outpatient placement  
 4 certificate and a copy of the state mental health discharge  
 5 form to a department representative in the county where the  
 6 patient will be residing. For persons who are leaving a state  
 7 mental health treatment facility, the petition for involuntary  
 8 outpatient placement must be filed in the county where the  
 9 patient will be residing.

10 2. The service provider that will have primary  
 11 responsibility for service provision shall be identified by  
 12 the designated department representative prior to the order  
 13 for involuntary outpatient placement and must, prior to filing  
 14 a petition for involuntary outpatient placement, certify to  
 15 the court whether the services recommended in the patient's  
 16 discharge plan are available in the local community and  
 17 whether the service provider agrees to provide those services.  
 18 The service provider must develop with the patient, or the  
 19 patient's guardian advocate, if appointed, a treatment or  
 20 service plan that addresses the needs identified in the  
 21 discharge plan. The plan must be deemed to be clinically  
 22 appropriate by a physician, clinical psychologist, psychiatric  
 23 nurse, mental health counselor, marriage and family therapist,  
 24 or clinical social worker, as defined in this chapter, who  
 25 consults with, or is employed or contracted by, the service  
 26 provider.

27 3. If the service provider certifies that the services  
 28 in the proposed treatment or service plan are not available,  
 29 the petitioner may not file the petition.

30 Section 4. Paragraph (e) of subsection (6) of section  
 31 394.467, Florida Statutes, is amended to read:

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1 394.467 Involuntary inpatient placement.--

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

3 (e) The administrator of the receiving facility shall  
 4 provide a copy of the court order and adequate documentation  
 5 of a patient's mental illness to the administrator of a  
 6 treatment facility whenever a patient is ordered for  
 7 involuntary inpatient placement, whether by civil or criminal  
 8 court. The ~~Such~~ documentation shall include any advance  
 9 directives made by the patient, a psychiatric evaluation of  
 10 the patient, and any evaluations of the patient performed by a  
 11 clinical psychologist, a marriage and family therapist, a  
 12 mental health counselor, or a clinical social worker. The  
 13 administrator of a treatment facility may refuse admission to  
 14 any patient directed to its facilities on an involuntary  
 15 basis, whether by civil or criminal court order, who is not  
 16 accompanied at the same time by adequate orders and  
 17 documentation.

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 19 (Redesignate subsequent sections.)

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

23 And the title is amended as follows:

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

25  
26 insert:

27 amending s. 394.455, F.S.; providing and  
 28 revising definitions; amending s. 394.463,  
 29 F.S.; providing that a marriage and family  
 30 therapist may execute a certificate for  
 31 involuntary examination; amending s. 394.4655,

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1 F.S.; providing that a marriage and family  
2 therapist or mental health counselor may deem a  
3 services treatment plan clinically appropriate  
4 for an involuntary outpatient placement;  
5 amending s. 394.467, F.S.; requiring that  
6 documentation of any evaluation performed by a  
7 marriage and family therapist or mental health  
8 counselor be provided when a patient is ordered  
9 for involuntary inpatient placement;

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