

1 A bill to be entitled

2 An act relating to programs of the Department

3 of Children and Family Services; amending s.

4 394.455, F.S.; providing and revising

5 definitions; amending s. 394.463, F.S.;

6 providing that a marriage and family therapist

7 may execute a certificate for involuntary

8 examination; amending s. 394.4655, F.S.;

9 providing that a marriage and family therapist

10 or mental health counselor may deem a services

11 treatment plan clinically appropriate for an

12 involuntary outpatient placement; amending s.

13 394.467, F.S.; requiring that documentation of

14 any evaluation performed by a marriage and

15 family therapist or mental health counselor be

16 provided when a patient is ordered for

17 involuntary inpatient placement; amending s.

18 383.0115, F.S.; deleting a provision that

19 repeals the Commission on Marriage and Family

20 Support Initiatives; directing the Department

21 of Children and Family Services to advise the

22 Legislature when the commission ceases to be

23 essential; amending s. 397.451, F.S.; requiring

24 service provider personnel who request an

25 exemption from disqualification to submit the

26 request within a certain time after

27 notification of the disqualification; deleting

28 a provision specifying that service provider

29 personnel shall not be adversely affected

30 pending disposition of an exemption from

31 disqualification; deleting a provision

1 requiring immediate dismissal of service
2 provider personnel upon disapproval of a
3 request for an exemption; prohibiting the
4 department from issuing a regular license to a
5 service provider that fails to provide proof
6 that background screening information has been
7 submitted providing that upon notification of
8 the disqualification, the service provider
9 shall comply with requirements regarding
10 exclusions from employment in s. 435.06, F.S.;
11 repealing s. 3, ch. 2003-279, Laws of Florida;
12 requiring the Department of Children and Family
13 Services, the Agency for Persons with
14 Disabilities, the Department of Health, the
15 Agency for Health Care Administration, and the
16 Department of Elderly Affairs to convene a
17 workgroup for the purpose of implementing a
18 statewide system for ensuring the provision of
19 services for adults with disabilities;
20 requiring that the Department of Children and
21 Family Services coordinate the workgroup;
22 requiring the workgroup to report to the
23 Governor and the Legislature by a specified
24 date; requiring the participating agencies to
25 support the expenses of workgroup members;
26 requiring that the recommendations of the
27 workgroup be incorporated into certain
28 interagency agreements; abrogating the repeal
29 of s. 20.19(2)(c) and (4)(b)6. and 8., F.S.,
30 relating to the appointment of certain mental
31 health and substance abuse positions and the

1 establishment of program offices for mental
2 health and substance abuse; providing an
3 effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
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7 Section 1. Subsection (31) of section 394.455, Florida
8 Statutes, is amended, and subsections (34) and (35) are added
9 to that section, to read:

10 394.455 Definitions.--As used in this part, unless the
11 context clearly requires otherwise, the term:

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

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

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

24 Section 2. Paragraph (a) of subsection (2) of section
25 394.463, Florida Statutes, is amended to read:

26 394.463 Involuntary examination.--

27 (2) INVOLUNTARY EXAMINATION.--

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

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

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

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

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

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, mental health
12 counselor, marriage and family therapist, or clinical social
13 worker, as defined in this chapter, who consults with, or is
14 employed or contracted by, the service provider. The service
15 provider must certify to the court in the proposed treatment
16 plan whether sufficient services for improvement and
17 stabilization are currently available and whether the service
18 provider agrees to provide those services. If the service
19 provider certifies that the services in the proposed treatment
20 plan are not available, the petitioner may not file the
21 petition.

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

30 2. The service provider that will have primary
31 responsibility for service provision shall be identified by

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

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

19 Section 4. Paragraph (e) of subsection (6) of section
 20 394.467, Florida Statutes, is amended to read:

21 394.467 Involuntary inpatient placement.--

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

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

1 mental health counselor, or a clinical social worker. The
 2 administrator of a treatment facility may refuse admission to
 3 any patient directed to its facilities on an involuntary
 4 basis, whether by civil or criminal court order, who is not
 5 accompanied at the same time by adequate orders and
 6 documentation.

7 Section 5. Subsection (6) of section 383.0115, Florida
 8 Statutes, is amended to read:

9 383.0115 The Commission on Marriage and Family Support
 10 Initiatives.--

11 (6) Pursuant to the requirements in s. 20.052(2), the
 12 department shall advise the Legislature when the commission
 13 ceases to be essential to the furtherance of a public purpose.
 14 ~~This section is repealed on June 30, 2008, unless reviewed and~~
 15 ~~saved from repeal through reenactment by the Legislature.~~

16 Section 6. Paragraph (f) of subsection (1) of section
 17 397.451, Florida Statutes, is amended, and paragraph (g) is
 18 added to that subsection, to read:

19 397.451 Background checks of service provider
 20 personnel.--

21 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
 22 EXCEPTIONS.--

23 (f) Service provider personnel who request an
 24 exemption from disqualification must submit the request within
 25 30 days after being notified of the ~~a pending~~
 26 disqualification. Upon notification of the disqualification,
 27 the service provider shall comply with requirements regarding
 28 exclusion from employment in s. 435.06. The employment of
 29 ~~service provider personnel shall not be adversely affected~~
 30 ~~pending disposition of the request for an exemption.~~
 31 ~~Disapproval of a request for an exemption shall result in the~~

1 ~~immediate dismissal of the service provider personnel from~~
2 ~~employment with the provider.~~

3 (g) The department may not issue a regular license to
4 any service provider that fails to provide proof that
5 background screening information has been submitted in
6 accordance with chapter 435.

7 Section 7. (1) The Department of Children and Family
8 Services, the Agency for Persons with Disabilities, the
9 Department of Health, the Agency for Health Care
10 Administration, and the Department of Elderly Affairs shall
11 convene a workgroup for the purpose of developing and
12 implementing a workable statewide system of ensuring that
13 adults with disabilities are provided ready access to the
14 programs most likely to meet their needs. The system shall
15 avoid duplication of services and unnecessary delay in
16 providing needed services. The participating agencies shall
17 implement improvements that maximize access to the services
18 provided under applicable state and federal laws, with an
19 emphasis on developing strategies for overcoming barriers to
20 the timely access to services.

21 (2) The Department of Children and Family Services
22 shall coordinate the activities of the interagency workgroup,
23 which shall include representatives from the state agencies
24 specified in subsection (1) and may include other
25 representatives whom the workgroup identifies as necessary to
26 complete its tasks.

27 (3) The interagency workgroup shall, at a minimum,
28 address:

29 (a) Existing barriers to providing timely access to
30 services for disabled individuals, including the requirements
31 of any targeted service delivery;

1 (b) Existing resources for overcoming identified
2 barriers;

3 (c) Additional resources that are needed in order to
4 overcome identified barriers, including recommendations for
5 any needed legislative action or additional funding for
6 programs; and

7 (d) The need for cooperative agreements among the
8 agencies.

9 (3) The workgroup shall report to the Governor and the
10 Legislature its findings and recommendations relating to each
11 responsibility, including recommendations for legislation if
12 necessary, by January 31, 2007, and shall submit a final
13 report by January 31, 2008. The workgroup is dissolved upon
14 submission of its final report.

15 (4) Members of the interagency workgroup shall serve
16 without compensation and each participating agency shall
17 support the travel, per diem, and other expenses of its
18 representatives.

19 (5) The recommendations of the workgroup shall be
20 incorporated into the interagency agreements described in s.
21 408.302, Florida Statutes.

22 Section 8. Section 3 of chapter 2003-279, Laws of
23 Florida, is repealed.

24 Section 9. This act shall take effect upon becoming a
25 law.

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