

1 A bill to be entitled
2 An act relating to programs of the Department of Children
3 and Family Services; amending s. 397.451, F.S.; requiring
4 service provider personnel who request an exemption from
5 disqualification to submit the request within a certain
6 time after notification of the disqualification; requiring
7 a service provider to comply with the provisions of s.
8 435.06, F.S.; deleting a provision requiring immediate
9 dismissal of service provider personnel upon disapproval
10 of a request for an exemption; prohibiting the department
11 from issuing a regular license to a service provider that
12 fails to provide proof that background screening
13 information has been submitted; repealing s. 3, ch. 2003-
14 279, Laws of Florida; abrogating the repeal of s.
15 20.19(2)(c) and (4)(b)6. and 8., F.S., relating to the
16 appointment of certain mental health and substance abuse
17 positions and the establishment of program offices for
18 mental health and substance abuse; amending s. 394.455,
19 F.S.; revising the definition of the term "service
20 provider" and providing a definition of the term "marriage
21 and family therapist"; amending s. 394.463, F.S.;
22 providing that a marriage and family therapist may execute
23 a certificate for involuntary examination; amending s.
24 394.4655, F.S.; providing that a marriage and family
25 therapist may deem a services treatment plan clinically
26 appropriate for an involuntary outpatient placement;
27 amending s. 394.467, F.S.; requiring that documentation of
28 any evaluation performed by a marriage and family

29 therapist be provided when a patient is ordered for
 30 involuntary inpatient placement; providing effective
 31 dates.

32
 33 Be It Enacted by the Legislature of the State of Florida:

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 35 Section 1. Paragraph (f) of subsection (1) of section
 36 397.451, Florida Statutes, is amended, and paragraph (g) is
 37 added to that subsection, to read:

38 397.451 Background checks of service provider personnel.--

39 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
 40 EXCEPTIONS.--

41 (f) Service provider personnel who request an exemption
 42 from disqualification must submit the request within 30 days
 43 after being notified of the ~~a pending~~ disqualification. Upon
 44 notification of the disqualification, the service provider shall
 45 comply with the requirements regarding exclusions from
 46 employment under s. 435.06. ~~The employment of service provider~~
 47 ~~personnel shall not be adversely affected pending disposition of~~
 48 ~~the request for an exemption. Disapproval of a request for an~~
 49 ~~exemption shall result in the immediate dismissal of the service~~
 50 ~~provider personnel from employment with the provider.~~

51 (g) The department may not issue a regular license to any
 52 service provider that fails to provide proof that background
 53 screening information has been submitted in accordance with
 54 chapter 435.

55 Section 2. Section 3 of chapter 2003-279, Laws of Florida,
 56 is repealed.

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57 Section 3. Effective July 1, 2006, subsection (31) of
58 section 394.455, Florida Statutes, is amended, and subsection
59 (34) is added to that section, to read:

60 394.455 Definitions.--As used in this part, unless the
61 context clearly requires otherwise, the term:

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

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

71 Section 4. Effective July 1, 2006, paragraph (a) of
72 subsection (2) of section 394.463, Florida Statutes, is amended
73 to read:

74 394.463 Involuntary examination.--

75 (2) INVOLUNTARY EXAMINATION.--

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

78 1. A court may enter an ex parte order stating that a
79 person appears to meet the criteria for involuntary examination,
80 giving the findings on which that conclusion is based. The ex
81 parte order for involuntary examination must be based on sworn
82 testimony, written or oral. If other less restrictive means are
83 not available, such as voluntary appearance for outpatient
84 evaluation, a law enforcement officer, or other designated agent

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85 of the court, shall take the person into custody and deliver him
86 or her to the nearest receiving facility for involuntary
87 examination. The order of the court shall be made a part of the
88 patient's clinical record. No fee shall be charged for the
89 filing of an order under this subsection. Any receiving facility
90 accepting the patient based on this order must send a copy of
91 the order to the Agency for Health Care Administration on the
92 next working day. The order shall be valid only until executed
93 or, if not executed, for the period specified in the order
94 itself. If no time limit is specified in the order, the order
95 shall be valid for 7 days after the date that the order was
96 signed.

97 2. A law enforcement officer shall take a person who
98 appears to meet the criteria for involuntary examination into
99 custody and deliver the person or have him or her delivered to
100 the nearest receiving facility for examination. The officer
101 shall execute a written report detailing the circumstances under
102 which the person was taken into custody, and the report shall be
103 made a part of the patient's clinical record. Any receiving
104 facility accepting the patient based on this report must send a
105 copy of the report to the Agency for Health Care Administration
106 on the next working day.

107 3. A physician, clinical psychologist, psychiatric nurse,
108 mental health counselor, marriage and family therapist, or
109 clinical social worker may execute a certificate stating that he
110 or she has examined a person within the preceding 48 hours and
111 finds that the person appears to meet the criteria for
112 involuntary examination and stating the observations upon which

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113 that conclusion is based. If other less restrictive means are
114 not available, such as voluntary appearance for outpatient
115 evaluation, a law enforcement officer shall take the person
116 named in the certificate into custody and deliver him or her to
117 the nearest receiving facility for involuntary examination. The
118 law enforcement officer shall execute a written report detailing
119 the circumstances under which the person was taken into custody.
120 The report and certificate shall be made a part of the patient's
121 clinical record. Any receiving facility accepting the patient
122 based on this certificate must send a copy of the certificate to
123 the Agency for Health Care Administration on the next working
124 day.

125 Section 5. Effective July 1, 2006, paragraphs (a) and (c)
126 of subsection (2) of section 394.4655, Florida Statutes, are
127 amended to read:

128 394.4655 Involuntary outpatient placement.--

129 (2) INVOLUNTARY OUTPATIENT PLACEMENT.--

130 (a)1. A patient may be retained by a receiving facility
131 upon the recommendation of the administrator of a receiving
132 facility where the patient has been examined and after adherence
133 to the notice of hearing procedures provided in s. 394.4599. The
134 recommendation must be supported by the opinion of a
135 psychiatrist and the second opinion of a clinical psychologist
136 or another psychiatrist, both of whom have personally examined
137 the patient within the preceding 72 hours, that the criteria for
138 involuntary outpatient placement are met. However, in a county
139 having a population of fewer than 50,000, if the administrator
140 certifies that no psychiatrist or clinical psychologist is

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141 available to provide the second opinion, the second opinion may
142 be provided by a licensed physician who has postgraduate
143 training and experience in diagnosis and treatment of mental and
144 nervous disorders or by a psychiatric nurse as defined in this
145 chapter. Such a recommendation must be entered on an involuntary
146 outpatient placement certificate, which certificate must
147 authorize the receiving facility to retain the patient pending
148 completion of a hearing. The certificate shall be made a part of
149 the patient's clinical record.

150 2. If the patient has been stabilized and no longer meets
151 the criteria for involuntary examination pursuant to s.
152 394.463(1), the patient must be released from the receiving
153 facility while awaiting the hearing for involuntary outpatient
154 placement. Prior to filing a petition for involuntary outpatient
155 treatment, the administrator of a receiving facility or a
156 designated department representative shall identify the service
157 provider that will have primary responsibility for service
158 provision under an order for involuntary outpatient placement,
159 unless the person is otherwise participating in outpatient
160 psychiatric treatment and is not in need of public financing for
161 that treatment, in which case the individual, if eligible, may
162 be ordered to involuntary treatment pursuant to the existing
163 psychiatric treatment relationship.

164 3. The service provider shall prepare a written proposed
165 treatment plan in consultation with the patient or the patient's
166 guardian advocate, if appointed, for the court's consideration
167 for inclusion in the involuntary outpatient placement order. The
168 service provider shall also provide a copy of the proposed

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169 treatment plan to the patient and the administrator of the
170 receiving facility. The treatment plan must specify the nature
171 and extent of the patient's mental illness. The treatment plan
172 must address the reduction of symptoms that necessitate
173 involuntary outpatient placement and include measurable goals
174 and objectives for the services and treatment that are provided
175 to treat the person's mental illness and to assist the person in
176 living and functioning in the community or to attempt to prevent
177 a relapse or deterioration. Service providers may select and
178 provide supervision to other individuals to implement specific
179 aspects of the treatment plan. The services in the treatment
180 plan must be deemed to be clinically appropriate by a physician,
181 clinical psychologist, psychiatric nurse, marriage and family
182 therapist, or clinical social worker, as defined in this
183 chapter, who consults with, or is employed or contracted by, the
184 service provider. The service provider must certify to the court
185 in the proposed treatment plan whether sufficient services for
186 improvement and stabilization are currently available and
187 whether the service provider agrees to provide those services.
188 If the service provider certifies that the services in the
189 proposed treatment plan are not available, the petitioner may
190 not file the petition.

191 (c)1. The administrator of the treatment facility shall
192 provide a copy of the involuntary outpatient placement
193 certificate and a copy of the state mental health discharge form
194 to a department representative in the county where the patient
195 will be residing. For persons who are leaving a state mental
196 health treatment facility, the petition for involuntary

197 outpatient placement must be filed in the county where the
 198 patient will be residing.

199 2. The service provider that will have primary
 200 responsibility for service provision shall be identified by the
 201 designated department representative prior to the order for
 202 involuntary outpatient placement and must, prior to filing a
 203 petition for involuntary outpatient placement, certify to the
 204 court whether the services recommended in the patient's
 205 discharge plan are available in the local community and whether
 206 the service provider agrees to provide those services. The
 207 service provider must develop with the patient, or the patient's
 208 guardian advocate, if appointed, a treatment or service plan
 209 that addresses the needs identified in the discharge plan. The
 210 plan must be deemed to be clinically appropriate by a physician,
 211 clinical psychologist, psychiatric nurse, marriage and family
 212 therapist, or clinical social worker, as defined in this
 213 chapter, who consults with, or is employed or contracted by, the
 214 service provider.

215 3. If the service provider certifies that the services in
 216 the proposed treatment or service plan are not available, the
 217 petitioner may not file the petition.

218 Section 6. Effective July 1, 2006, paragraph (e) of
 219 subsection (6) of section 394.467, Florida Statutes, is amended
 220 to read:

221 394.467 Involuntary inpatient placement.--

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

223 (e) The administrator of the receiving facility shall
 224 provide a copy of the court order and adequate documentation of

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225 a patient's mental illness to the administrator of a treatment
226 facility whenever a patient is ordered for involuntary inpatient
227 placement, whether by civil or criminal court. The ~~Such~~
228 documentation shall include any advance directives made by the
229 patient, a psychiatric evaluation of the patient, and any
230 evaluations of the patient performed by a clinical psychologist,
231 a marriage and family therapist, or a clinical social worker.
232 The administrator of a treatment facility may refuse admission
233 to any patient directed to its facilities on an involuntary
234 basis, whether by civil or criminal court order, who is not
235 accompanied at the same time by adequate orders and
236 documentation.

237 Section 7. Except as otherwise expressly provided in this
238 act, this act shall take effect upon becoming a law.