

## CHAMBER ACTION

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1 The Health & Families Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to programs of the Department of Children  
7 and Family Services; amending s. 383.0115, F.S.; deleting  
8 a provision that repeals the Commission on Marriage and  
9 Family Support Initiatives; directing the Department of  
10 Children and Family Services to advise the Legislature  
11 when the commission ceases to be essential; amending s.  
12 397.451, F.S.; requiring service provider personnel who  
13 request an exemption from disqualification to submit the  
14 request within a certain time after notification of the  
15 disqualification; requiring a service provider to comply  
16 with the provisions of s. 435.06, F.S.; deleting a  
17 provision requiring immediate dismissal of service  
18 provider personnel upon disapproval of a request for an  
19 exemption; prohibiting the department from issuing a  
20 regular license to a service provider that fails to  
21 provide proof that background screening information has  
22 been submitted; repealing s. 3, ch. 2003-279, Laws of  
23 Florida; abrogating the repeal of s. 20.19(2)(c) and

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24 (4) (b) 6. and 8., F.S., relating to the appointment of  
 25 certain mental health and substance abuse positions and  
 26 the establishment of program offices for mental health and  
 27 substance abuse; amending s. 394.455, F.S.; revising and  
 28 providing definitions; amending s. 394.463, F.S.;  
 29 providing that a marriage and family therapist may execute  
 30 a certificate for involuntary examination; amending s.  
 31 394.4655, F.S.; providing that a mental health counselor  
 32 or a marriage and family therapist may deem a services  
 33 treatment plan clinically appropriate for an involuntary  
 34 outpatient placement; amending s. 394.467, F.S.; requiring  
 35 that documentation of any evaluation performed by a mental  
 36 health counselor or a marriage and family therapist be  
 37 provided when a patient is ordered for involuntary  
 38 inpatient placement; providing effective dates.

39

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

41

42 Section 1. Subsection (6) of section 383.0115, Florida  
 43 Statutes, is amended to read:

44 383.0115 The Commission on Marriage and Family Support  
 45 Initiatives.--

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

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51 Section 2. Paragraph (f) of subsection (1) of section  
52 397.451, Florida Statutes, is amended, and paragraph (g) is  
53 added to that subsection, to read:

54 397.451 Background checks of service provider personnel.--

55 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
56 EXCEPTIONS.--

57 (f) Service provider personnel who request an exemption  
58 from disqualification must submit the request within 30 days  
59 after being notified of the a pending disqualification. Upon  
60 notification of the disqualification, the service provider shall  
61 comply with the requirements regarding exclusion from employment  
62 under s. 435.06. The employment of service provider personnel  
63 shall not be adversely affected pending disposition of the  
64 request for an exemption. Disapproval of a request for an  
65 exemption shall result in the immediate dismissal of the service  
66 provider personnel from employment with the provider.

67 (g) The department may not issue a regular license to any  
68 service provider that fails to provide proof that background  
69 screening information has been submitted in accordance with  
70 chapter 435.

71 Section 3. Section 3 of chapter 2003-279, Laws of Florida,  
72 is repealed.

73 Section 4. Effective July 1, 2006, subsection (31) of  
74 section 394.455, Florida Statutes, is amended, and subsections  
75 (34) and (35) are added to that section, to read:

76 394.455 Definitions.--As used in this part, unless the  
77 context clearly requires otherwise, the term:

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

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

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

90 Section 5. Effective July 1, 2006, paragraph (a) of  
 91 subsection (2) of section 394.463, Florida Statutes, is amended  
 92 to read:

93 394.463 Involuntary examination.--

94 (2) INVOLUNTARY EXAMINATION.--

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

97 1. A court may enter an ex parte order stating that a  
 98 person appears to meet the criteria for involuntary examination,  
 99 giving the findings on which that conclusion is based. The ex  
 100 parte order for involuntary examination must be based on sworn  
 101 testimony, written or oral. If other less restrictive means are  
 102 not available, such as voluntary appearance for outpatient  
 103 evaluation, a law enforcement officer, or other designated agent  
 104 of the court, shall take the person into custody and deliver him  
 105 or her to the nearest receiving facility for involuntary

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106 examination. The order of the court shall be made a part of the  
107 patient's clinical record. No fee shall be charged for the  
108 filing of an order under this subsection. Any receiving facility  
109 accepting the patient based on this order must send a copy of  
110 the order to the Agency for Health Care Administration on the  
111 next working day. The order shall be valid only until executed  
112 or, if not executed, for the period specified in the order  
113 itself. If no time limit is specified in the order, the order  
114 shall be valid for 7 days after the date that the order was  
115 signed.

116         2. A law enforcement officer shall take a person who  
117 appears to meet the criteria for involuntary examination into  
118 custody and deliver the person or have him or her delivered to  
119 the nearest receiving facility for examination. The officer  
120 shall execute a written report detailing the circumstances under  
121 which the person was taken into custody, and the report shall be  
122 made a part of the patient's clinical record. Any receiving  
123 facility accepting the patient based on this report must send a  
124 copy of the report to the Agency for Health Care Administration  
125 on the next working day.

126         3. A physician, clinical psychologist, psychiatric nurse,  
127 mental health counselor, marriage and family therapist, or  
128 clinical social worker may execute a certificate stating that he  
129 or she has examined a person within the preceding 48 hours and  
130 finds that the person appears to meet the criteria for  
131 involuntary examination and stating the observations upon which  
132 that conclusion is based. If other less restrictive means are  
133 not available, such as voluntary appearance for outpatient

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134 evaluation, a law enforcement officer shall take the person  
135 named in the certificate into custody and deliver him or her to  
136 the nearest receiving facility for involuntary examination. The  
137 law enforcement officer shall execute a written report detailing  
138 the circumstances under which the person was taken into custody.  
139 The report and certificate shall be made a part of the patient's  
140 clinical record. Any receiving facility accepting the patient  
141 based on this certificate must send a copy of the certificate to  
142 the Agency for Health Care Administration on the next working  
143 day.

144 Section 6. Effective July 1, 2006, paragraphs (a) and (c)  
145 of subsection (2) of section 394.4655, Florida Statutes, are  
146 amended to read:

147 394.4655 Involuntary outpatient placement.--

148 (2) INVOLUNTARY OUTPATIENT PLACEMENT.--

149 (a)1. A patient may be retained by a receiving facility  
150 upon the recommendation of the administrator of a receiving  
151 facility where the patient has been examined and after adherence  
152 to the notice of hearing procedures provided in s. 394.4599. The  
153 recommendation must be supported by the opinion of a  
154 psychiatrist and the second opinion of a clinical psychologist  
155 or another psychiatrist, both of whom have personally examined  
156 the patient within the preceding 72 hours, that the criteria for  
157 involuntary outpatient placement are met. However, in a county  
158 having a population of fewer than 50,000, if the administrator  
159 certifies that no psychiatrist or clinical psychologist is  
160 available to provide the second opinion, the second opinion may  
161 be provided by a licensed physician who has postgraduate

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162 training and experience in diagnosis and treatment of mental and  
163 nervous disorders or by a psychiatric nurse as defined in this  
164 chapter. Such a recommendation must be entered on an involuntary  
165 outpatient placement certificate, which certificate must  
166 authorize the receiving facility to retain the patient pending  
167 completion of a hearing. The certificate shall be made a part of  
168 the patient's clinical record.

169       2. If the patient has been stabilized and no longer meets  
170 the criteria for involuntary examination pursuant to s.  
171 394.463(1), the patient must be released from the receiving  
172 facility while awaiting the hearing for involuntary outpatient  
173 placement. Prior to filing a petition for involuntary outpatient  
174 treatment, the administrator of a receiving facility or a  
175 designated department representative shall identify the service  
176 provider that will have primary responsibility for service  
177 provision under an order for involuntary outpatient placement,  
178 unless the person is otherwise participating in outpatient  
179 psychiatric treatment and is not in need of public financing for  
180 that treatment, in which case the individual, if eligible, may  
181 be ordered to involuntary treatment pursuant to the existing  
182 psychiatric treatment relationship.

183       3. The service provider shall prepare a written proposed  
184 treatment plan in consultation with the patient or the patient's  
185 guardian advocate, if appointed, for the court's consideration  
186 for inclusion in the involuntary outpatient placement order. The  
187 service provider shall also provide a copy of the proposed  
188 treatment plan to the patient and the administrator of the  
189 receiving facility. The treatment plan must specify the nature

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190 and extent of the patient's mental illness. The treatment plan  
191 must address the reduction of symptoms that necessitate  
192 involuntary outpatient placement and include measurable goals  
193 and objectives for the services and treatment that are provided  
194 to treat the person's mental illness and to assist the person in  
195 living and functioning in the community or to attempt to prevent  
196 a relapse or deterioration. Service providers may select and  
197 provide supervision to other individuals to implement specific  
198 aspects of the treatment plan. The services in the treatment  
199 plan must be deemed to be clinically appropriate by a physician,  
200 clinical psychologist, psychiatric nurse, mental health  
201 counselor, marriage and family therapist, or clinical social  
202 worker, as defined in this chapter, who consults with, or is  
203 employed or contracted by, the service provider. The service  
204 provider must certify to the court in the proposed treatment  
205 plan whether sufficient services for improvement and  
206 stabilization are currently available and whether the service  
207 provider agrees to provide those services. If the service  
208 provider certifies that the services in the proposed treatment  
209 plan are not available, the petitioner may not file the  
210 petition.

211 (c)1. The administrator of the treatment facility shall  
212 provide a copy of the involuntary outpatient placement  
213 certificate and a copy of the state mental health discharge form  
214 to a department representative in the county where the patient  
215 will be residing. For persons who are leaving a state mental  
216 health treatment facility, the petition for involuntary



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217 outpatient placement must be filed in the county where the  
218 patient will be residing.

219 2. The service provider that will have primary  
220 responsibility for service provision shall be identified by the  
221 designated department representative prior to the order for  
222 involuntary outpatient placement and must, prior to filing a  
223 petition for involuntary outpatient placement, certify to the  
224 court whether the services recommended in the patient's  
225 discharge plan are available in the local community and whether  
226 the service provider agrees to provide those services. The  
227 service provider must develop with the patient, or the patient's  
228 guardian advocate, if appointed, a treatment or service plan  
229 that addresses the needs identified in the discharge plan. The  
230 plan must be deemed to be clinically appropriate by a physician,  
231 clinical psychologist, psychiatric nurse, mental health  
232 counselor, marriage and family therapist, or clinical social  
233 worker, as defined in this chapter, who consults with, or is  
234 employed or contracted by, the service provider.

235 3. If the service provider certifies that the services in  
236 the proposed treatment or service plan are not available, the  
237 petitioner may not file the petition.

238 Section 7. Effective July 1, 2006, paragraph (e) of  
239 subsection (6) of section 394.467, Florida Statutes, is amended  
240 to read:

241 394.467 Involuntary inpatient placement.--

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

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

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245 a patient's mental illness to the administrator of a treatment  
246 facility whenever a patient is ordered for involuntary inpatient  
247 placement, whether by civil or criminal court. The ~~Such~~  
248 documentation shall include any advance directives made by the  
249 patient, a psychiatric evaluation of the patient, and any  
250 evaluations of the patient performed by a clinical psychologist,  
251 a mental health counselor, a marriage and family therapist, or a  
252 clinical social worker. The administrator of a treatment  
253 facility may refuse admission to any patient directed to its  
254 facilities on an involuntary basis, whether by civil or criminal  
255 court order, who is not accompanied at the same time by adequate  
256 orders and documentation.

257 Section 8. Except as otherwise expressly provided in this  
258 act, this act shall take effect upon becoming a law.