

By Senator Grimsley

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1                                   A bill to be entitled  
2           An act relating to the Florida Mental Health Act;  
3           amending s. 394.455, F.S.; redefining terms; requiring  
4           that a psychiatric-mental health advanced registered  
5           nurse practitioner hold a specified national  
6           certification; conforming terminology to changes made  
7           by the act; amending s. 394.463, F.S.; authorizing a  
8           psychiatric-mental health advanced registered nurse  
9           practitioner to approve the involuntary examination or  
10          release of a patient from a receiving facility;  
11          amending ss. 394.4574, 394.4655, and 394.467, F.S.;  
12          conforming terminology to changes made by the act;  
13          reenacting ss. 394.495(3) and 394.496(6), F.S.,  
14          relating to child and adolescent mental health  
15          programs and services, to incorporate the amendment  
16          made to s. 394.455, F.S., in references thereto;  
17          reenacting ss. 39.407(4)(b), 394.455(34),  
18          394.462(1)(e), 394.4625(1)(b) and (1)(c), 395.1041(6),  
19          and 984.19(3), F.S., relating to medical, psychiatric,  
20          and psychological examination and treatment of a  
21          child, involuntary examination, transportation to a  
22          receiving facility, voluntary admissions, the rights  
23          of a person being treated, and certain criteria and  
24          procedures used in evaluating a child, respectively,  
25          to incorporate amendments made to s. 394.463, F.S., in  
26          references thereto; reenacting s. 394.4598(1), F.S.,  
27          relating to guardian advocates, to incorporate  
28          amendments made to ss. 394.4655 and 394.467, F.S., in  
29          references thereto; providing an effective date.

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

Section 1. Subsections (23) and (33) of section 394.455, Florida Statutes, are amended to read:

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

(23) "Psychiatric-mental health advanced registered psychiatric nurse practitioner" means a registered nurse certified licensed under s. 464.012 part I of chapter 464 who has a master's degree or a doctorate in psychiatric nursing and holds a national advanced practice certification as a psychiatric-mental health nurse practitioner ~~2 years of post-master's clinical experience under the supervision of a physician.~~

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

Section 2. Paragraphs (a) and (f) of subsection (2) of section 394.463, Florida Statutes, are amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

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

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59           1. A court may enter an ex parte order stating that a  
60 person appears to meet the criteria for involuntary examination,  
61 giving the findings on which that conclusion is based. The ex  
62 parte order for involuntary examination must be based on sworn  
63 testimony, written or oral. If other less restrictive means are  
64 not available, such as voluntary appearance for outpatient  
65 evaluation, a law enforcement officer, or other designated agent  
66 of the court, shall take the person into custody and deliver him  
67 or her to the nearest receiving facility for involuntary  
68 examination. The order of the court shall be made a part of the  
69 patient's clinical record. A No fee may not shall be charged for  
70 the filing of an order under this subsection. Any receiving  
71 facility accepting the patient based on this order must send a  
72 copy of the order to the Agency for Health Care Administration  
73 on the next working day. The order shall be valid only until  
74 executed or, if not executed, for the period specified in the  
75 order itself. If no time limit is specified in the order, the  
76 order shall be valid for 7 days after the date that the order  
77 was signed.

78           2. A law enforcement officer shall take a person who  
79 appears to meet the criteria for involuntary examination into  
80 custody and deliver the person or have him or her delivered to  
81 the nearest receiving facility for examination. The officer  
82 shall execute a written report detailing the circumstances under  
83 which the person was taken into custody, and the report shall be  
84 made a part of the patient's clinical record. Any receiving  
85 facility accepting the patient based on this report must send a  
86 copy of the report to the Agency for Health Care Administration  
87 on the next working day.

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88           3. A physician, clinical psychologist, psychiatric-mental  
89 health advanced registered ~~psychiatric~~ nurse practitioner,  
90 mental health counselor, marriage and family therapist, or  
91 clinical social worker may execute a certificate stating that he  
92 or she has examined a person within the preceding 48 hours and  
93 finds that the person appears to meet the criteria for  
94 involuntary examination and stating the observations upon which  
95 that conclusion is based. If other less restrictive means are  
96 not available, such as voluntary appearance for outpatient  
97 evaluation, a law enforcement officer shall take the person  
98 named in the certificate into custody and deliver him or her to  
99 the nearest receiving facility for involuntary examination. The  
100 law enforcement officer shall execute a written report detailing  
101 the circumstances under which the person was taken into custody.  
102 The report and certificate shall be made a part of the patient's  
103 clinical record. Any receiving facility accepting the patient  
104 based on this certificate must send a copy of the certificate to  
105 the Agency for Health Care Administration on the next working  
106 day.

107           (f) A patient shall be examined by a physician or clinical  
108 psychologist at a receiving facility without unnecessary delay  
109 and may, upon the order of a physician, be given emergency  
110 treatment if it is determined that such treatment is necessary  
111 for the safety of the patient or others. The patient may not be  
112 released by the receiving facility or its contractor without the  
113 documented approval of a psychiatrist, a clinical psychologist,  
114 or a psychiatric-mental health advanced registered nurse  
115 practitioner or, if the receiving facility is a hospital, the  
116 release may also be approved by an attending emergency

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117 department physician with experience in the diagnosis and  
118 treatment of mental and nervous disorders and after completion  
119 of an involuntary examination pursuant to this subsection.  
120 However, a patient may not be held in a receiving facility for  
121 involuntary examination longer than 72 hours.

122 Section 3. Paragraph (a) of subsection (2) of section  
123 394.4574, Florida Statutes, is amended to read:

124 394.4574 Department responsibilities for a mental health  
125 resident who resides in an assisted living facility that holds a  
126 limited mental health license.—

127 (2) The department must ensure that:

128 (a) A mental health resident has been assessed by a  
129 psychiatrist, clinical psychologist, clinical social worker, or  
130 psychiatric-mental health advanced registered ~~psychiatric nurse~~  
131 practitioner, or an individual who is supervised by one of these  
132 professionals, and determined to be appropriate to reside in an  
133 assisted living facility. The documentation must be provided to  
134 the administrator of the facility within 30 days after the  
135 mental health resident has been admitted to the facility. An  
136 evaluation completed upon discharge from a state mental hospital  
137 meets the requirements of this subsection related to  
138 appropriateness for placement as a mental health resident if it  
139 was completed within 90 days before ~~prior to~~ admission to the  
140 facility.

141 Section 4. Subsection (2) of section 394.4655, Florida  
142 Statutes, is amended to read:

143 394.4655 Involuntary outpatient placement.—

144 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

145 (a)1. A patient who is being recommended for involuntary

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146 outpatient placement by the administrator of the receiving  
147 facility where the patient has been examined may be retained by  
148 the facility after adherence to the notice procedures provided  
149 in s. 394.4599. The recommendation must be supported by the  
150 opinion of a psychiatrist and the second opinion of a clinical  
151 psychologist or another psychiatrist, both of whom have  
152 personally examined the patient within the preceding 72 hours,  
153 that the criteria for involuntary outpatient placement are met.  
154 However, in a county having a population of fewer than 50,000,  
155 if the administrator certifies that a psychiatrist or clinical  
156 psychologist is not available to provide the second opinion, the  
157 second opinion may be provided by a licensed physician who has  
158 postgraduate training and experience in diagnosis and treatment  
159 of mental and nervous disorders or by a psychiatric-mental  
160 health advanced registered ~~psychiatric~~ nurse practitioner. Any  
161 second opinion authorized in this subparagraph may be conducted  
162 through a face-to-face examination, in person or by electronic  
163 means. Such recommendation must be entered on an involuntary  
164 outpatient placement certificate that authorizes the receiving  
165 facility to retain the patient pending completion of a hearing.  
166 The certificate shall be made a part of the patient's clinical  
167 record.

168 2. If the patient has been stabilized and no longer meets  
169 the criteria for involuntary examination pursuant to s.  
170 394.463(1), the patient must be released from the receiving  
171 facility while awaiting the hearing for involuntary outpatient  
172 placement. Before filing a petition for involuntary outpatient  
173 treatment, the administrator of a receiving facility or a  
174 designated department representative must identify the service

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175 provider that will have primary responsibility for service  
176 provision under an order for involuntary outpatient placement,  
177 unless the person is otherwise participating in outpatient  
178 psychiatric treatment and is not in need of public financing for  
179 that treatment, in which case the individual, if eligible, may  
180 be ordered to involuntary treatment pursuant to the existing  
181 psychiatric treatment relationship.

182 3. The service provider shall prepare a written proposed  
183 treatment plan in consultation with the patient or the patient's  
184 guardian advocate, if appointed, for the court's consideration  
185 for inclusion in the involuntary outpatient placement order. The  
186 service provider shall also provide a copy of the proposed  
187 treatment plan to the patient and the administrator of the  
188 receiving facility. The treatment plan must specify the nature  
189 and extent of the patient's mental illness, address the  
190 reduction of symptoms that necessitate involuntary outpatient  
191 placement, and include measurable goals and objectives for the  
192 services and treatment that are provided to treat the person's  
193 mental illness and assist the person in living and functioning  
194 in the community or to prevent a relapse or deterioration.  
195 Service providers may select and supervise other individuals to  
196 implement specific aspects of the treatment plan. The services  
197 in the treatment plan must be deemed clinically appropriate by a  
198 physician, clinical psychologist, psychiatric-mental health  
199 advanced registered psychiatric nurse practitioner, mental  
200 health counselor, marriage and family therapist, or clinical  
201 social worker who consults with, or is employed or contracted  
202 by, the service provider. The service provider must certify to  
203 the court in the proposed treatment plan whether sufficient

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204 services for improvement and stabilization are currently  
205 available and whether the service provider agrees to provide  
206 those services. If the service provider certifies that the  
207 services in the proposed treatment plan are not available, the  
208 petitioner may not file the petition.

209 (b) If a patient in involuntary inpatient placement meets  
210 the criteria for involuntary outpatient placement, the  
211 administrator of the treatment facility may, before the  
212 expiration of the period during which the treatment facility is  
213 authorized to retain the patient, recommend involuntary  
214 outpatient placement. The recommendation must be supported by  
215 the opinion of a psychiatrist and the second opinion of a  
216 clinical psychologist or another psychiatrist, both of whom have  
217 personally examined the patient within the preceding 72 hours,  
218 that the criteria for involuntary outpatient placement are met.  
219 However, in a county having a population of fewer than 50,000,  
220 if the administrator certifies that a psychiatrist or clinical  
221 psychologist is not available to provide the second opinion, the  
222 second opinion may be provided by a licensed physician who has  
223 postgraduate training and experience in diagnosis and treatment  
224 of mental and nervous disorders or by a psychiatric-mental  
225 health advanced registered psychiatric nurse practitioner. Any  
226 second opinion authorized in this subparagraph may be conducted  
227 through a face-to-face examination, in person or by electronic  
228 means. Such recommendation must be entered on an involuntary  
229 outpatient placement certificate, and the certificate must be  
230 made a part of the patient's clinical record.

231 (c)1. The administrator of the treatment facility shall  
232 provide a copy of the involuntary outpatient placement



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233 certificate and a copy of the state mental health discharge form  
234 to a department representative in the county where the patient  
235 will be residing. For persons who are leaving a state mental  
236 health treatment facility, the petition for involuntary  
237 outpatient placement must be filed in the county where the  
238 patient will be residing.

239       2. The service provider that will have primary  
240 responsibility for service provision shall be identified by the  
241 designated department representative before ~~prior to~~ the order  
242 for involuntary outpatient placement and must, before ~~prior to~~  
243 filing a petition for involuntary outpatient placement, certify  
244 to the court whether the services recommended in the patient's  
245 discharge plan are available in the local community and whether  
246 the service provider agrees to provide those services. The  
247 service provider must develop with the patient, or the patient's  
248 guardian advocate, if appointed, a treatment or service plan  
249 that addresses the needs identified in the discharge plan. The  
250 plan must be deemed to be clinically appropriate by a physician,  
251 clinical psychologist, psychiatric-mental health advanced  
252 registered ~~psychiatric~~ nurse practitioner, mental health  
253 counselor, marriage and family therapist, or clinical social  
254 worker, as defined in this chapter, who consults with, or is  
255 employed or contracted by, the service provider.

256       3. If the service provider certifies that the services in  
257 the proposed treatment or service plan are not available, the  
258 petitioner may not file the petition.

259       Section 5. Subsection (2) of section 394.467, Florida  
260 Statutes, is amended to read:

261       394.467 Involuntary inpatient placement.—

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262 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be  
263 retained by a receiving facility or involuntarily placed in a  
264 treatment facility upon the recommendation of the administrator  
265 of the receiving facility where the patient has been examined  
266 and after adherence to the notice and hearing procedures  
267 provided in s. 394.4599. The recommendation must be supported by  
268 the opinion of a psychiatrist and the second opinion of a  
269 clinical psychologist or another psychiatrist, both of whom have  
270 personally examined the patient within the preceding 72 hours,  
271 that the criteria for involuntary inpatient placement are met.  
272 However, in a county that has a population of fewer than 50,000,  
273 if the administrator certifies that a psychiatrist or clinical  
274 psychologist is not available to provide the second opinion, the  
275 second opinion may be provided by a licensed physician who has  
276 postgraduate training and experience in diagnosis and treatment  
277 of mental and nervous disorders or by a psychiatric-mental  
278 health advanced registered psychiatric nurse practitioner. Any  
279 second opinion authorized in this subsection may be conducted  
280 through a face-to-face examination, in person or by electronic  
281 means. Such recommendation shall be entered on an involuntary  
282 inpatient placement certificate that authorizes the receiving  
283 facility to retain the patient pending transfer to a treatment  
284 facility or completion of a hearing.

285 Section 6. For the purpose of incorporating the amendment  
286 made by this act to section 394.455, Florida Statutes, in a  
287 reference thereto, subsection (3) of section 394.495, Florida  
288 Statutes, is reenacted to read:

289 394.495 Child and adolescent mental health system of care;  
290 programs and services.—

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291 (3) Assessments must be performed by:

292 (a) A professional as defined in s. 394.455(2), (4), (21),  
293 (23), or (24);

294 (b) A professional licensed under chapter 491; or

295 (c) A person who is under the direct supervision of a  
296 professional as defined in s. 394.455(2), (4), (21), (23), or  
297 (24) or a professional licensed under chapter 491.

298

299 The department shall adopt by rule statewide standards for  
300 mental health assessments, which must be based on current  
301 relevant professional and accreditation standards.

302 Section 7. For the purpose of incorporating the amendment  
303 made by this act to section 394.455, Florida Statutes, in a  
304 reference thereto, subsection (6) of section 394.496, Florida  
305 Statutes, is reenacted to read:

306 394.496 Service planning.—

307 (6) A professional as defined in s. 394.455(2), (4), (21),  
308 (23), or (24) or a professional licensed under chapter 491 must  
309 be included among those persons developing the services plan.

310 Section 8. For the purpose of incorporating the amendment  
311 made by this act to section 394.463, Florida Statutes, in a  
312 reference thereto, paragraph (b) of subsection (4) of section  
313 39.407, Florida Statutes, is reenacted to read:

314 39.407 Medical, psychiatric, and psychological examination  
315 and treatment of child; physical, mental, or substance abuse  
316 examination of person with or requesting child custody.—

317 (4)

318 (b) The judge may also order such child to be evaluated by  
319 a psychiatrist or a psychologist or, if a developmental

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320 disability is suspected or alleged, by the developmental  
321 disability diagnostic and evaluation team of the department. If  
322 it is necessary to place a child in a residential facility for  
323 such evaluation, the criteria and procedure established in s.  
324 394.463(2) or chapter 393 shall be used, whichever is  
325 applicable.

326 Section 9. For the purpose of incorporating the amendment  
327 made by this act to section 394.463, Florida Statutes, in a  
328 reference thereto, subsection (34) of section 394.455, Florida  
329 Statutes, is reenacted to read:

330 394.455 Definitions.—As used in this part, unless the  
331 context clearly requires otherwise, the term:

332 (34) "Involuntary examination" means an examination  
333 performed under s. 394.463 to determine if an individual  
334 qualifies for involuntary inpatient treatment under s.  
335 394.467(1) or involuntary outpatient treatment under s.  
336 394.4655(1).

337 Section 10. For the purpose of incorporating the amendment  
338 made by this act to section 394.463, Florida Statutes, in a  
339 reference thereto, paragraph (e) of subsection (1) of section  
340 394.462, Florida Statutes, is reenacted to read:

341 394.462 Transportation.—

342 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

343 (e) When a member of a mental health overlay program or a  
344 mobile crisis response service is a professional authorized to  
345 initiate an involuntary examination pursuant to s. 394.463 and  
346 that professional evaluates a person and determines that  
347 transportation to a receiving facility is needed, the service,  
348 at its discretion, may transport the person to the facility or

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349 may call on the law enforcement agency or other transportation  
350 arrangement best suited to the needs of the patient.

351 Section 11. For the purpose of incorporating the amendment  
352 made by this act to section 394.463, Florida Statutes, in a  
353 reference thereto, paragraphs (b) and (c) of subsection (1) of  
354 section 394.4625, Florida Statutes, are reenacted to read:

355 394.4625 Voluntary admissions.—

356 (1) AUTHORITY TO RECEIVE PATIENTS.—

357 (b) A mental health overlay program or a mobile crisis  
358 response service or a licensed professional who is authorized to  
359 initiate an involuntary examination pursuant to s. 394.463 and  
360 is employed by a community mental health center or clinic must,  
361 pursuant to district procedure approved by the respective  
362 district administrator, conduct an initial assessment of the  
363 ability of the following persons to give express and informed  
364 consent to treatment before such persons may be admitted  
365 voluntarily:

366 1. A person 60 years of age or older for whom transfer is  
367 being sought from a nursing home, assisted living facility,  
368 adult day care center, or adult family-care home, when such  
369 person has been diagnosed as suffering from dementia.

370 2. A person 60 years of age or older for whom transfer is  
371 being sought from a nursing home pursuant to s. 400.0255(12).

372 3. A person for whom all decisions concerning medical  
373 treatment are currently being lawfully made by the health care  
374 surrogate or proxy designated under chapter 765.

375 (c) When an initial assessment of the ability of a person  
376 to give express and informed consent to treatment is required  
377 under this section, and a mobile crisis response service does

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378 not respond to the request for an assessment within 2 hours  
379 after the request is made or informs the requesting facility  
380 that it will not be able to respond within 2 hours after the  
381 request is made, the requesting facility may arrange for  
382 assessment by any licensed professional authorized to initiate  
383 an involuntary examination pursuant to s. 394.463 who is not  
384 employed by or under contract with, and does not have a  
385 financial interest in, either the facility initiating the  
386 transfer or the receiving facility to which the transfer may be  
387 made.

388 Section 12. For the purpose of incorporating the amendment  
389 made by this act to section 394.463, Florida Statutes, in a  
390 reference thereto, subsection (6) of section 395.1041, Florida  
391 Statutes, is reenacted to read:

392 395.1041 Access to emergency services and care.—

393 (6) RIGHTS OF PERSONS BEING TREATED.—A hospital providing  
394 emergency services and care to a person who is being  
395 involuntarily examined under the provisions of s. 394.463 shall  
396 adhere to the rights of patients specified in part I of chapter  
397 394 and the involuntary examination procedures provided in s.  
398 394.463, regardless of whether the hospital, or any part  
399 thereof, is designated as a receiving or treatment facility  
400 under part I of chapter 394 and regardless of whether the person  
401 is admitted to the hospital.

402 Section 13. For the purpose of incorporating the amendment  
403 made by this act to section 394.463, Florida Statutes, in a  
404 reference thereto, subsection (3) of section 984.19, Florida  
405 Statutes, is reenacted to read:

406 984.19 Medical screening and treatment of child;

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407 examination of parent, guardian, or person requesting custody.-

408 (3) A judge may order that a child alleged to be or  
409 adjudicated a child in need of services be examined by a  
410 licensed health care professional. The judge may also order such  
411 child to be evaluated by a psychiatrist or a psychologist, by a  
412 district school board educational needs assessment team, or, if  
413 a developmental disability is suspected or alleged, by the  
414 developmental disability diagnostic and evaluation team of the  
415 Department of Children and Families. The judge may order a  
416 family assessment if that assessment was not completed at an  
417 earlier time. If it is necessary to place a child in a  
418 residential facility for such evaluation, then the criteria and  
419 procedure established in s. 394.463(2) or chapter 393 shall be  
420 used, whichever is applicable. The educational needs assessment  
421 provided by the district school board educational needs  
422 assessment team shall include, but not be limited to, reports of  
423 intelligence and achievement tests, screening for learning  
424 disabilities and other handicaps, and screening for the need for  
425 alternative education pursuant to s. 1003.53.

426 Section 14. For the purpose of incorporating the amendments  
427 made by this act to sections 394.4655 and 394.467, Florida  
428 Statutes, in a reference thereto, subsection (1) of section  
429 394.4598, Florida Statutes, is reenacted to read:

430 394.4598 Guardian advocate.-

431 (1) The administrator may petition the court for the  
432 appointment of a guardian advocate based upon the opinion of a  
433 psychiatrist that the patient is incompetent to consent to  
434 treatment. If the court finds that a patient is incompetent to  
435 consent to treatment and has not been adjudicated incapacitated

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436 and a guardian with the authority to consent to mental health  
437 treatment appointed, it shall appoint a guardian advocate. The  
438 patient has the right to have an attorney represent him or her  
439 at the hearing. If the person is indigent, the court shall  
440 appoint the office of the public defender to represent him or  
441 her at the hearing. The patient has the right to testify, cross-  
442 examine witnesses, and present witnesses. The proceeding shall  
443 be recorded either electronically or stenographically, and  
444 testimony shall be provided under oath. One of the professionals  
445 authorized to give an opinion in support of a petition for  
446 involuntary placement, as described in s. 394.4655 or s.  
447 394.467, must testify. A guardian advocate must meet the  
448 qualifications of a guardian contained in part IV of chapter  
449 744, except that a professional referred to in this part, an  
450 employee of the facility providing direct services to the  
451 patient under this part, a departmental employee, a facility  
452 administrator, or member of the Florida local advocacy council  
453 shall not be appointed. A person who is appointed as a guardian  
454 advocate must agree to the appointment.

455 Section 15. This act shall take effect July 1, 2015.