

1 A bill to be entitled
 2 An act relating to involuntary examinations under the
 3 Baker Act; amending s. 394.463, F.S.; authorizing
 4 physician assistants and advanced registered nurse
 5 practitioners to initiate involuntary examinations
 6 under the Baker Act of persons believed to have mental
 7 illness; amending s. 394.455, F.S.; providing
 8 definitions; amending ss. 39.407, 394.495, 394.496,
 9 394.9085, 409.972, and 744.704, F.S.; conforming
 10 cross-references; providing an effective date.

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

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 14 Section 1. Paragraph (a) of subsection (2) of section
 15 394.463, Florida Statutes, is amended to read:

16 394.463 Involuntary examination.—

17 (2) INVOLUNTARY EXAMINATION.—

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

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

27 | of the court, shall take the person into custody and deliver him
28 | or her to the nearest receiving facility for involuntary
29 | examination. The order of the court shall be made a part of the
30 | patient's clinical record. No fee shall be charged for the
31 | filing of an order under this subsection. Any receiving facility
32 | accepting the patient based on this order must send a copy of
33 | the order to the Agency for Health Care Administration on the
34 | next working day. The order shall be valid only until executed
35 | or, if not executed, for the period specified in the order
36 | itself. If no time limit is specified in the order, the order
37 | shall be valid for 7 days after the date that the order was
38 | signed.

39 | 2. A law enforcement officer shall take a person who
40 | appears to meet the criteria for involuntary examination into
41 | custody and deliver the person or have him or her delivered to
42 | the nearest receiving facility for examination. The officer
43 | shall execute a written report detailing the circumstances under
44 | which the person was taken into custody, and the report shall be
45 | made a part of the patient's clinical record. Any receiving
46 | facility accepting the patient based on this report must send a
47 | copy of the report to the Agency for Health Care Administration
48 | on the next working day.

49 | 3. A physician, physician assistant, clinical
50 | psychologist, psychiatric nurse, mental health counselor,
51 | marriage and family therapist, ~~or~~ clinical social worker, or
52 | advanced registered nurse practitioner may execute a certificate

53 | stating that he or she has examined a person within the
54 | preceding 48 hours and finds that the person appears to meet the
55 | criteria for involuntary examination and stating the
56 | observations upon which that conclusion is based. If other less
57 | restrictive means are not available, such as voluntary
58 | appearance for outpatient evaluation, a law enforcement officer
59 | shall take the person named in the certificate into custody and
60 | deliver him or her to the nearest receiving facility for
61 | involuntary examination. The law enforcement officer shall
62 | execute a written report detailing the circumstances under which
63 | the person was taken into custody. The report and certificate
64 | shall be made a part of the patient's clinical record. Any
65 | receiving facility accepting the patient based on this
66 | certificate must send a copy of the certificate to the Agency
67 | for Health Care Administration on the next working day.

68 | Section 2. Subsections (2) through (21) of section
69 | 394.455, Florida Statutes, are renumbered as subsections (3)
70 | through (22), respectively, present subsections (22) through
71 | (38) are renumbered as subsections (24) through (40),
72 | respectively, and new subsections (2) and (23) are added to that
73 | section, to read:

74 | 394.455 Definitions.—As used in this part, unless the
75 | context clearly requires otherwise, the term:

76 | (2) "Physician assistant" means a person who is a graduate
77 | of an approved program or its equivalent or meets standards
78 | approved by the boards and is licensed to perform medical

79 services delegated by the supervising physician.

80 (23) "Advanced registered nurse practitioner" means a
81 person licensed in this state to practice professional nursing
82 and certified in advanced or specialized nursing practice, as
83 defined in s. 464.003.

84 Section 3. Paragraph (a) of subsection (3) of section
85 39.407, Florida Statutes, is amended to read:

86 39.407 Medical, psychiatric, and psychological examination
87 and treatment of child; physical, mental, or substance abuse
88 examination of person with or requesting child custody.—

89 (3) (a) 1. Except as otherwise provided in subparagraph
90 (b) 1. or paragraph (e), before the department provides
91 psychotropic medications to a child in its custody, the
92 prescribing physician shall attempt to obtain express and
93 informed consent, as defined in s. 394.455(10) ~~394.455(9)~~ and as
94 described in s. 394.459(3) (a), from the child's parent or legal
95 guardian. The department must take steps necessary to facilitate
96 the inclusion of the parent in the child's consultation with the
97 physician. However, if the parental rights of the parent have
98 been terminated, the parent's location or identity is unknown or
99 cannot reasonably be ascertained, or the parent declines to give
100 express and informed consent, the department may, after
101 consultation with the prescribing physician, seek court
102 authorization to provide the psychotropic medications to the
103 child. Unless parental rights have been terminated and if it is
104 possible to do so, the department shall continue to involve the

105 parent in the decisionmaking process regarding the provision of
 106 psychotropic medications. If, at any time, a parent whose
 107 parental rights have not been terminated provides express and
 108 informed consent to the provision of a psychotropic medication,
 109 the requirements of this section that the department seek court
 110 authorization do not apply to that medication until such time as
 111 the parent no longer consents.

112 2. Any time the department seeks a medical evaluation to
 113 determine the need to initiate or continue a psychotropic
 114 medication for a child, the department must provide to the
 115 evaluating physician all pertinent medical information known to
 116 the department concerning that child.

117 Section 4. Paragraphs (a) and (c) of subsection (3) of
 118 section 394.495, Florida Statutes, are amended to read:

119 394.495 Child and adolescent mental health system of care;
 120 programs and services.—

121 (3) Assessments must be performed by:

122 (a) A professional as defined in s. 394.455(3), (5), (22),
 123 (25), or (26) ~~394.455(2), (4), (21), (23), or (24)~~;

124 (c) A person who is under the direct supervision of a
 125 professional as defined in s. 394.455(3), (5), (22), (25), or
 126 (26) ~~394.455(2), (4), (21), (23), or (24)~~ or a professional
 127 licensed under chapter 491.

128 Section 5. Subsection (5) of section 394.496, Florida
 129 Statutes, is amended to read:

130 394.496 Service planning.—

131 (5) A professional as defined in s. 394.455(3), (5), (22),
 132 (25), or (26) ~~394.455(2), (4), (21), (23), or (24)~~ or a
 133 professional licensed under chapter 491 must be included among
 134 those persons developing the services plan.

135 Section 6. Subsection (6) of section 394.9085, Florida
 136 Statutes, is amended to read:

137 394.9085 Behavioral provider liability.—

138 (6) For purposes of this section, the terms
 139 "detoxification services," "addictions receiving facility," and
 140 "receiving facility" have the same meanings as those provided in
 141 ss. 397.311(22)(a)4., 397.311(22)(a)1., and 394.455(28)
 142 ~~394.455(26)~~, respectively.

143 Section 7. Paragraph (b) of subsection (1) of section
 144 409.972, Florida Statutes, is amended to read:

145 409.972 Mandatory and voluntary enrollment.—

146 (1) The following Medicaid-eligible persons are exempt
 147 from mandatory managed care enrollment required by s. 409.965,
 148 and may voluntarily choose to participate in the managed medical
 149 assistance program:

150 (b) Medicaid recipients residing in residential commitment
 151 facilities operated through the Department of Juvenile Justice
 152 or mental health treatment facilities as defined by s.
 153 394.455(34) ~~394.455(32)~~.

154 Section 8. Subsection (7) of section 744.704, Florida
 155 Statutes, is amended to read:

156 744.704 Powers and duties.—

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157 | (7) A public guardian shall not commit a ward to a mental
158 | health treatment facility, as defined in s. 394.455(34)
159 | ~~394.455(32)~~, without an involuntary placement proceeding as
160 | provided by law.

161 | Section 9. This act shall take effect July 1, 2016.