

By Senator Campbell

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1 A bill to be entitled
2 An act relating to involuntary examinations under the
3 Baker Act; amending s. 394.455, F.S.; defining terms;
4 amending s. 394.463, F.S.; authorizing physician
5 assistants and advanced registered nurse practitioners
6 to execute a certificate under certain conditions
7 stating that they have examined a person and find the
8 person appears to meet the criteria for involuntary
9 examination; amending ss. 39.407, 394.495, 394.496,
10 394.9085, 409.972, and 744.2007, F.S.; conforming
11 cross-references; providing an effective date.

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

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15 Section 1. Present subsections (5) through (48) of section
16 394.455, Florida Statutes, are redesignated as subsections (6)
17 through (49), respectively, a new subsection (5) is added to
18 that section, and present subsection (33) is amended, to read:

19 394.455 Definitions.—As used in this part, the term:

20 (5) "Advanced registered nurse practitioner" means a person
21 licensed in this state to practice professional nursing and
22 certified in advanced or specialized nursing practice, as
23 defined in s. 464.003.

24 ~~(34)-(33) "Physician assistant" has the same meaning as~~
25 ~~provided in s. 458.347(2) means a person licensed under chapter~~
26 ~~458 or chapter 459 who has experience in the diagnosis and~~
27 ~~treatment of mental disorders.~~

28 Section 2. Paragraph (a) of subsection (2) of section
29 394.463, Florida Statutes, is amended to read:

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30 394.463 Involuntary examination.—

31 (2) INVOLUNTARY EXAMINATION.—

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

34 1. A circuit or county court may enter an ex parte order
35 stating that a person appears to meet the criteria for
36 involuntary examination and specifying the findings on which
37 that conclusion is based. The ex parte order for involuntary
38 examination must be based on written or oral sworn testimony
39 that includes specific facts that support the findings. If other
40 less restrictive means are not available, such as voluntary
41 appearance for outpatient evaluation, a law enforcement officer,
42 or other designated agent of the court, shall take the person
43 into custody and deliver him or her to an appropriate, or the
44 nearest, facility within the designated receiving system
45 pursuant to s. 394.462 for involuntary examination. The order of
46 the court shall be made a part of the patient's clinical record.
47 A fee may not be charged for the filing of an order under this
48 subsection. A facility accepting the patient based on this order
49 must send a copy of the order to the department the next working
50 day. The order may be submitted electronically through existing
51 data systems, if available. The order shall be valid only until
52 the person is delivered to the facility or for the period
53 specified in the order itself, whichever comes first. If no time
54 limit is specified in the order, the order shall be valid for 7
55 days after the date that the order was signed.

56 2. A law enforcement officer shall take a person who
57 appears to meet the criteria for involuntary examination into
58 custody and deliver the person or have him or her delivered to

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59 an appropriate, or the nearest, facility within the designated
60 receiving system pursuant to s. 394.462 for examination. The
61 officer shall execute a written report detailing the
62 circumstances under which the person was taken into custody,
63 which must be made a part of the patient's clinical record. Any
64 facility accepting the patient based on this report must send a
65 copy of the report to the department the next working day.

66 3. A physician, physician assistant, clinical psychologist,
67 psychiatric nurse, mental health counselor, marriage and family
68 therapist, ~~or~~ clinical social worker, or an advanced registered
69 nurse practitioner may execute a certificate stating that he or
70 she has examined a person within the preceding 48 hours and
71 finds that the person appears to meet the criteria for
72 involuntary examination and stating the observations upon which
73 that conclusion is based. If other less restrictive means, such
74 as voluntary appearance for outpatient evaluation, are not
75 available, a law enforcement officer shall take into custody the
76 person named in the certificate and deliver him or her to the
77 appropriate, or nearest, facility within the designated
78 receiving system pursuant to s. 394.462 for involuntary
79 examination. The law enforcement officer shall execute a written
80 report detailing the circumstances under which the person was
81 taken into custody. The report and certificate shall be made a
82 part of the patient's clinical record. Any facility accepting
83 the patient based on this certificate must send a copy of the
84 certificate to the department the next working day. The document
85 may be submitted electronically through existing data systems,
86 if applicable.

87 Section 3. Paragraph (a) of subsection (3) of section

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88 39.407, Florida Statutes, is amended to read:

89 39.407 Medical, psychiatric, and psychological examination
90 and treatment of child; physical, mental, or substance abuse
91 examination of person with or requesting child custody.—

92 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
93 or paragraph (e), before the department provides psychotropic
94 medications to a child in its custody, the prescribing physician
95 shall attempt to obtain express and informed consent, as defined
96 in s. 394.455 ~~s. 394.455(15)~~ and as described in s.
97 394.459(3) (a), from the child's parent or legal guardian. The
98 department must take steps necessary to facilitate the inclusion
99 of the parent in the child's consultation with the physician.
100 However, if the parental rights of the parent have been
101 terminated, the parent's location or identity is unknown or
102 cannot reasonably be ascertained, or the parent declines to give
103 express and informed consent, the department may, after
104 consultation with the prescribing physician, seek court
105 authorization to provide the psychotropic medications to the
106 child. Unless parental rights have been terminated and if it is
107 possible to do so, the department shall continue to involve the
108 parent in the decisionmaking process regarding the provision of
109 psychotropic medications. If, at any time, a parent whose
110 parental rights have not been terminated provides express and
111 informed consent to the provision of a psychotropic medication,
112 the requirements of this section that the department seek court
113 authorization do not apply to that medication until such time as
114 the parent no longer consents.

115 2. Any time the department seeks a medical evaluation to
116 determine the need to initiate or continue a psychotropic

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117 medication for a child, the department must provide to the
 118 evaluating physician all pertinent medical information known to
 119 the department concerning that child.

120 Section 4. Subsection (3) of section 394.495, Florida
 121 Statutes, is amended to read:

122 394.495 Child and adolescent mental health system of care;
 123 programs and services.—

124 (3) Assessments must be performed by:

125 (a) A professional as defined in s. 394.455(6), (8), (33),
 126 (36), or (37) ~~s. 394.455(5), (7), (32), (35), or (36);~~

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

128 (c) A person who is under the direct supervision of a
 129 qualified professional as defined in s. 394.455(6), (8), (33),
 130 (36), or (37) ~~s. 394.455(5), (7), (32), (35), or (36)~~ or a
 131 professional licensed under chapter 491.

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

134 394.496 Service planning.—

135 (5) A professional as defined in s. 394.455(6), (8), (33),
 136 (36), or (37) ~~s. 394.455(5), (7), (32), (35), or (36)~~ or a

137 professional licensed under chapter 491 must be included among
 138 those persons developing the services plan.

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

141 394.9085 Behavioral provider liability.—

142 (6) For purposes of this section, the terms "detoxification
 143 services," "addictions receiving facility," and "receiving
 144 facility" have the same meanings as those provided in ss.

145 397.311(26)(a)4., 397.311(26)(a)1., and 394.455(40) ~~394.455(39),~~

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146 respectively.

147 Section 7. Paragraph (b) of subsection (1) of section
148 409.972, Florida Statutes, is amended to read:

149 409.972 Mandatory and voluntary enrollment.—

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

154 (b) Medicaid recipients residing in residential commitment
155 facilities operated through the Department of Juvenile Justice
156 or a treatment facility as defined in s. 394.455(48) ~~s.~~
157 ~~394.455(47)~~.

158 Section 8. Subsection (7) of section 744.2007, Florida
159 Statutes, is amended to read:

160 744.2007 Powers and duties.—

161 (7) A public guardian may not commit a ward to a treatment
162 facility, as defined in s. 394.455(48) ~~s. 394.455(47)~~, without
163 an involuntary placement proceeding as provided by law.

164 Section 9. This act shall take effect July 1, 2018.