

By Senator Steube

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1                   A bill to be entitled  
2           An act relating to mental health and substance abuse;  
3           amending s. 397.675, F.S.; revising the criteria for  
4           involuntary admission for behavioral health services  
5           due to substance abuse; amending s. 397.6772, F.S.;  
6           revising duties of a law enforcement officer with  
7           respect to transporting a person for involuntary  
8           admission to a hospital or licensed detoxification or  
9           addictions receiving facility or detaining such person  
10          in a detention facility for a specified time under  
11          certain conditions; amending ss. 397.6793, 397.6798,  
12          397.6814, and 397.6951, F.S.; revising provisions  
13          relating to emergency admission, alternative  
14          involuntary assessment of minors, and contents of  
15          petitions for involuntary assessment and stabilization  
16          and involuntary services to include additional  
17          criteria for involuntary admission; amending s.  
18          397.6957, F.S.; providing additional requirements for  
19          a hearing on a petition for involuntary services;  
20          amending s. 397.697, F.S.; requiring a respondent to  
21          be released from involuntary substance abuse treatment  
22          if the court makes certain determinations regarding  
23          the respondent; providing an effective date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Section 397.675, Florida Statutes, is amended to  
28   read:

29           397.675 Criteria for involuntary admissions, including

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30 protective custody, emergency admission, and other involuntary  
31 assessment, involuntary treatment, and alternative involuntary  
32 assessment for minors, for purposes of assessment and  
33 stabilization, and for involuntary treatment.—A person meets the  
34 criteria for involuntary admission if:

35 (1) Within 24 hours before the initiation of the  
36 assessment, within 24 hours before coming into contact with a  
37 law enforcement officer, or while in contact with a law  
38 enforcement officer, the person has been resuscitated through  
39 the administration of a pharmacologic agent designed to reverse  
40 the pathophysiologic effects of a mood-altering or addictive  
41 substance when such substance was used in a nonmedical setting  
42 or in a manner that demonstrates a reckless disregard for the  
43 instructions for self-administration; or

44 (2) There is good faith reason to believe that the person  
45 is substance abuse impaired or has a co-occurring mental health  
46 disorder and, because of such impairment or disorder,<sup>+</sup>

47 ~~(1)~~ has lost the power of self-control with respect to  
48 substance abuse<sup>+</sup> and:

49 ~~(2)~~(a) The person needs ~~is in need of~~ substance abuse  
50 services and, by reason of substance abuse impairment, his or  
51 her judgment has been so impaired that he or she is incapable of  
52 appreciating his or her need for such services and of making a  
53 rational decision in that regard, although mere refusal to  
54 receive such services does not constitute evidence of lack of  
55 judgment with respect to his or her need for such services; or

56 (b) Without care or treatment, the person is likely to  
57 suffer from neglect or refuse to care for himself or herself;  
58 that such neglect or refusal poses a real and present threat of

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59 substantial harm to his or her well-being; and that it is not  
60 apparent that such harm may be avoided through the help of  
61 willing family members or friends or the provision of other  
62 services, or there is substantial likelihood that the person has  
63 inflicted, or threatened to or attempted to inflict, or, unless  
64 admitted, is likely to inflict, physical harm on himself,  
65 herself, or another.

66 Section 2. Present subsection (2) of section 397.6772,  
67 Florida Statutes, is redesignated as subsection (3), and a new  
68 subsection (2) is added to that section, to read:

69 397.6772 Protective custody without consent.—

70 (2) A law enforcement officer shall take a person meeting  
71 the criteria for involuntary admission under s. 397.675(1) into  
72 custody and deliver him or her to a hospital or to a licensed  
73 detoxification or addictions receiving facility. The law  
74 enforcement officer may detain the person for his or her own  
75 protection in an appropriate detention facility, including, but  
76 not limited to, a municipal or county jail, until the person can  
77 be transported to a hospital or to a licensed detoxification or  
78 addictions receiving facility. A person may not be held against  
79 his or her will by a law enforcement officer for more than 72  
80 hours without being transported to a hospital or to a licensed  
81 detoxification or addictions receiving facility. The 72-hour  
82 limit may be exceeded, however, if a petition for involuntary  
83 assessment or treatment has been timely filed pursuant to s.  
84 397.6773(2).

85 Section 3. Subsection (1) of section 397.6793, Florida  
86 Statutes, is amended to read:

87 397.6793 Professional's certificate for emergency

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88 admission.—

89 (1) A physician, a clinical psychologist, a physician  
90 assistant working under the scope of practice of the supervising  
91 physician, a psychiatric nurse, an advanced registered nurse  
92 practitioner, a mental health counselor, a marriage and family  
93 therapist, a master's-level-certified addictions professional  
94 for substance abuse services, or a clinical social worker may  
95 execute a professional's certificate for emergency admission.  
96 The professional's certificate must include the name of the  
97 person to be admitted, the relationship between the person and  
98 the professional executing the certificate, the relationship  
99 between the applicant and the professional, any relationship  
100 between the professional and the licensed service provider, a  
101 statement that the person has been examined and assessed within  
102 the preceding 5 days after the application date, and factual  
103 allegations with respect to the need for emergency admission,  
104 including:

105 (a)1. A finding by the professional that the person meets  
106 the criteria for involuntary admission under s. 397.675(1); or

107 2.(a) The reason for the professional's belief that the  
108 person is substance abuse impaired.†

109 (b) The reason for the professional's belief that because  
110 of such impairment the person has lost the power of self-control  
111 with respect to substance abuse† and:

112 ~~(c)1. The reason for the belief that,~~ Without care or  
113 treatment, the person is likely to suffer from neglect or refuse  
114 to care for himself or herself; that such neglect or refusal  
115 poses a real and present threat of substantial harm to his or  
116 her well-being; and that it is not apparent that such harm may

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117 be avoided through the help of willing family members or friends  
 118 or the provision of other services, or there is substantial  
 119 likelihood that the person has inflicted or, unless admitted, is  
 120 likely to inflict, physical harm on himself, herself, or  
 121 another; or

122 ~~2. The reason for the belief that~~ The person's refusal to  
 123 voluntarily receive care is based on judgment so impaired by  
 124 reason of substance abuse that the person is incapable of  
 125 appreciating his or her need for care and of making a rational  
 126 decision regarding that ~~his or her~~ need for care.

127 Section 4. Subsection (2) of section 397.6798, Florida  
 128 Statutes, is amended to read:

129 397.6798 Alternative involuntary assessment procedure for  
 130 minors.—

131 (2) An application for alternative involuntary assessment  
 132 for a minor must establish the need for immediate involuntary  
 133 admission and contain the name of the minor to be admitted, the  
 134 name and signature of the applicant, the relationship between  
 135 the minor to be admitted and the applicant, and:

136 (a)1. An attestation by the applicant that the person meets  
 137 the criteria for involuntary admission under s. 397.675(1); or

138 2. Factual allegations with respect to:

139 ~~(a)~~ the reason for the applicant's belief that the minor is  
 140 substance abuse impaired. ~~;~~ and

141 (b) The reason for the applicant's belief that because of  
 142 such impairment the minor has lost the power of self-control  
 143 with respect to substance abuse ~~;~~ and: either

144 ~~(c)1. The reason the applicant believes that the minor~~ Has  
 145 inflicted or is likely to inflict physical harm on himself or

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146 herself or others unless admitted; or

147 ~~2. The reason the applicant believes that~~ The minor's  
 148 refusal to voluntarily receive substance abuse services is based  
 149 on judgment so impaired by reason of substance abuse that the  
 150 minor ~~he or she~~ is incapable of appreciating his or her need for  
 151 such services and of making a rational decision regarding that  
 152 ~~his or her~~ need for services.

153 Section 5. Section 397.6814, Florida Statutes, is amended  
 154 to read:

155 397.6814 Involuntary assessment and stabilization; contents  
 156 of petition.—A petition for involuntary assessment and  
 157 stabilization must contain the name of the respondent, the name  
 158 of the applicant or applicants, the relationship between the  
 159 respondent and the applicant, and the name of the respondent's  
 160 attorney, if known, and must state facts to support the need for  
 161 involuntary assessment and stabilization, including:

162 (1) (a) An attestation by the applicant that the person  
 163 meets the criteria for involuntary admission under s.

164 397.675(1); or

165 (b) ~~(1)~~ The reason for the petitioner's belief that the  
 166 respondent is substance abuse impaired.†

167 (2) The reason for the petitioner's belief that because of  
 168 such impairment the respondent has lost the power of self-  
 169 control with respect to substance abuse; and:

170 ~~(3) (a) The reason the petitioner believes that the~~  
 171 ~~respondent~~ Has inflicted or is likely to inflict physical harm  
 172 on himself or herself or others unless admitted; or

173 (b) ~~The reason the petitioner believes that~~ The  
 174 ~~respondent's~~ refusal to voluntarily receive care is based on

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175 judgment so impaired by reason of substance abuse that the  
 176 respondent is incapable of appreciating his or her need for care  
 177 and of making a rational decision regarding that need for care.  
 178 If the respondent has refused to submit to an assessment, such  
 179 refusal must be alleged in the petition.

180

181 A fee may not be charged for the filing of a petition pursuant  
 182 to this section.

183 Section 6. Section 397.6951, Florida Statutes, is amended  
 184 to read:

185 397.6951 Contents of petition for involuntary services.—A  
 186 petition for involuntary services must contain the name of the  
 187 respondent; the name of the petitioner or petitioners; the  
 188 relationship between the respondent and the petitioner; the name  
 189 of the respondent's attorney, if known; the findings and  
 190 recommendations of the assessment performed by the qualified  
 191 professional; and the factual allegations presented by the  
 192 petitioner establishing the need for involuntary outpatient  
 193 services. The factual allegations must demonstrate:

194 (1) (a) An attestation by the applicant that the person  
 195 meets the criteria for involuntary admission under s.  
 196 397.675 (1); or

197 (b) ~~(1)~~ The reason for the petitioner's belief that the  
 198 respondent is substance abuse impaired.†

199 (2) The reason for the petitioner's belief that because of  
 200 such impairment the respondent has lost the power of self-  
 201 control with respect to substance abuse† and:

202 ~~(3) (a) The reason the petitioner believes that the~~  
 203 ~~respondent~~ Has inflicted or is likely to inflict physical harm

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204 on himself or herself or others unless the court orders the  
 205 involuntary services; or

206 ~~(b) The reason the petitioner believes that~~ The  
 207 ~~respondent's~~ refusal to voluntarily receive care is based on  
 208 judgment so impaired by reason of substance abuse that the  
 209 respondent is incapable of appreciating his or her need for care  
 210 and of making a rational decision regarding that need for care.

211 Section 7. Subsection (2) of section 397.6957, Florida  
 212 Statutes, is amended to read:

213 397.6957 Hearing on petition for involuntary services.—

214 (2) The petitioner has the burden of showing ~~proving~~ by  
 215 clear and convincing evidence that:

216 ~~(a)~~ the respondent is substance abuse impaired and has a  
 217 history of lack of compliance with treatment for substance  
 218 abuse; and:

219 (a) The respondent meets the criteria for involuntary  
 220 admission under s. 397.675(1); or

221 (b) Because of such impairment the respondent is unlikely  
 222 to voluntarily participate in the recommended services or is  
 223 unable to determine for himself or herself whether services are  
 224 necessary and:

225 1. Without services, the respondent is likely to suffer  
 226 from neglect or refuse to care for himself or herself; that such  
 227 neglect or refusal poses a real and present threat of  
 228 substantial harm to his or her well-being; and that there is a  
 229 substantial likelihood that without services the respondent will  
 230 cause serious bodily harm to himself, herself, or another in the  
 231 near future, as evidenced by recent behavior; or

232 2. The respondent's refusal to voluntarily receive care is



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233 based on judgment so impaired by reason of substance abuse that  
234 the respondent is incapable of appreciating his or her need for  
235 care and of making a rational decision regarding that need for  
236 care.

237 Section 8. Section 397.697, Florida Statutes, is amended to  
238 read:

239 397.697 Court determination; effect of court order for  
240 involuntary services.—

241 (1) When the court finds that the conditions for  
242 involuntary services have been shown ~~proved~~ by clear and  
243 convincing evidence, it may order the respondent to receive  
244 involuntary services from a publicly funded licensed service  
245 provider for a period not to exceed 90 days. The court may also  
246 order a respondent to undergo treatment through a privately  
247 funded licensed service provider if the respondent has the  
248 ability to pay for the treatment, or if any person on the  
249 respondent's behalf voluntarily demonstrates a willingness and  
250 an ability to pay for the treatment. If the court finds it  
251 necessary, it may direct the sheriff to take the respondent into  
252 custody and deliver him or her to the licensed service provider  
253 specified in the court order, or to the nearest appropriate  
254 licensed service provider, for involuntary services.

255 (2) When the court determines that the respondent has  
256 regained the power of self-control with respect to substance  
257 abuse and is not likely to inflict physical harm on himself or  
258 herself or others ~~conditions justifying involuntary services no~~  
259 ~~longer exist,~~ the respondent individual must be released as  
260 provided in s. 397.6971. When the conditions specified in  
261 subsection (1) ~~justifying involuntary services~~ are expected to

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262 exist after 90 days of services, a renewal of the involuntary  
263 services order may be requested pursuant to s. 397.6975 before  
264 the end of the 90-day period.

265 (3)~~(2)~~ In all cases resulting in an order for involuntary  
266 services, the court shall retain jurisdiction over the case and  
267 the parties for the entry of such further orders as the  
268 circumstances may require. The court's requirements for  
269 notification of proposed release must be included in the  
270 original order.

271 (4)~~(3)~~ An involuntary services order authorizes the  
272 licensed service provider to require the respondent ~~individual~~  
273 to receive services that will benefit him or her, including  
274 services at any licensable service component of a licensed  
275 service provider.

276 (5)~~(4)~~ If the court orders involuntary services, a copy of  
277 the order must be sent to the managing entity within 1 working  
278 day after it is received from the court. Documents may be  
279 submitted electronically through ~~through~~ existing data systems,  
280 if applicable.

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