

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.

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 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
 21 person licensed in this state to practice professional nursing
 22 and 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:

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
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
67 psychologist, psychiatric nurse, mental health counselor,
68 marriage and family therapist, ~~or~~ clinical social worker, or an
69 advanced registered nurse practitioner may execute a certificate
70 stating that he or she has examined a person within the
71 preceding 48 hours and finds that the person appears to meet the
72 criteria for involuntary examination and stating the
73 observations upon which that conclusion is based. If other less
74 restrictive means, such as voluntary appearance for outpatient
75 evaluation, are not available, a law enforcement officer shall

76 take into custody the person named in the certificate and
77 deliver him or her to the appropriate, or nearest, facility
78 within the designated receiving system pursuant to s. 394.462
79 for involuntary examination. The law enforcement officer shall
80 execute a written report detailing the circumstances under which
81 the person was taken into custody. The report and certificate
82 shall be made a part of the patient's clinical record. Any
83 facility accepting the patient based on this certificate must
84 send a copy of the certificate to the department the next
85 working day. The document may be submitted electronically
86 through existing data systems, if applicable.

87 Section 3. Paragraph (a) of subsection (3) of section
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
93 (b) 1. or paragraph (e), before the department provides
94 psychotropic medications to a child in its custody, the
95 prescribing physician shall attempt to obtain express and
96 informed consent, as defined in s. 394.455 ~~s. 394.455(15)~~ and as
97 described in s. 394.459(3) (a), from the child's parent or legal
98 guardian. The department must take steps necessary to facilitate
99 the inclusion of the parent in the child's consultation with the
100 physician. However, if the parental rights of the parent have

101 | been 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
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
143 | "detoxification services," "addictions receiving facility," and
144 | "receiving facility" have the same meanings as those provided in
145 | ss. 397.311(26)(a)4., 397.311(26)(a)1., and 394.455(40)
146 | ~~394.455(39)~~, 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

151 from mandatory managed care enrollment required by s. 409.965,
152 and 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.