

1 A bill to be entitled
2 An act relating to admission to mental health
3 facilities; amending ss. 394.4599 and 394.4785, F.S.;
4 requiring a receiving facility or a mental health
5 treatment facility to refer the case of certain minors
6 admitted to such facility for mental health assessment
7 to the clerk of the court for the appointment of a
8 public defender within a specified timeframe; granting
9 access to pertinent records to the minor's attorney;
10 requiring hearings involving children under a
11 specified age to be conducted in the physical presence
12 of the child; providing penalties; amending s.
13 394.4625, F.S.; requiring the administrator of a
14 receiving facility to file a petition for voluntary
15 placement within a specified timeframe after a person
16 under age 18 is admitted for services or transferred
17 to voluntary status; providing requirements for such
18 petitions; requiring the court to hold a hearing
19 within a specified timeframe to verify consent under
20 certain circumstances; amending s. 394.499, F.S.;
21 requiring the administrator of a children's crisis
22 stabilization unit or a juvenile addictions receiving
23 facility to file a petition for voluntary placement
24 within a specified timeframe after a person under age
25 18 is admitted for services; requiring the court to

26 hold a hearing within a specified timeframe to verify
27 consent under certain circumstances; providing an
28 effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Paragraph (c) of subsection (2) of section
33 394.4599, Florida Statutes, is amended to read:

34 394.4599 Notice.—

35 (2) INVOLUNTARY ADMISSION.—

36 (c)1.a. A receiving facility shall give notice of the
37 whereabouts of a minor who is being involuntarily held for
38 examination pursuant to s. 394.463 to the minor's parent,
39 guardian, caregiver, or guardian advocate, in person or by
40 telephone or other form of electronic communication, immediately
41 after the minor's arrival at the facility. The facility may
42 delay notification for no more than 24 hours after the minor's
43 arrival if the facility has submitted a report to the central
44 abuse hotline, pursuant to s. 39.201, based upon knowledge or
45 suspicion of abuse, abandonment, or neglect and if the facility
46 deems a delay in notification to be in the minor's best
47 interest.

48 b. If the minor is under the age of 18, the receiving
49 facility shall refer the case to the clerk of the court for the
50 appointment of a public defender within the first 24 hours after

51 the minor's arrival for potential initiation of a judicial
52 review hearing. An attorney who represents the minor shall have
53 access to all records relevant to the presentation of the
54 minor's case. All hearings involving children under the age of
55 18 shall be conducted in the physical presence of the child and
56 not by electronic or video means. A person who violates this
57 sub-subparagraph commits a misdemeanor of the first degree,
58 punishable as provided in s. 775.082 or s. 775.083.

59 2. The receiving facility shall attempt to notify the
60 minor's parent, guardian, caregiver, or guardian advocate until
61 the receiving facility receives confirmation from the parent,
62 guardian, caregiver, or guardian advocate, verbally, by
63 telephone or other form of electronic communication, or by
64 recorded message, that notification has been received. Attempts
65 to notify the parent, guardian, caregiver, or guardian advocate
66 must be repeated at least once every hour during the first 12
67 hours after the minor's arrival and once every 24 hours
68 thereafter and must continue until such confirmation is
69 received, unless the minor is released at the end of the 72-hour
70 examination period, or until a petition for involuntary services
71 is filed with the court pursuant to s. 394.463(2)(g). The
72 receiving facility may seek assistance from a law enforcement
73 agency to notify the minor's parent, guardian, caregiver, or
74 guardian advocate if the facility has not received within the
75 first 24 hours after the minor's arrival a confirmation by the

76 | parent, guardian, caregiver, or guardian advocate that
77 | notification has been received. The receiving facility must
78 | document notification attempts in the minor's clinical record.

79 | Section 2. Section 394.4785, Florida Statutes, is amended
80 | to read:

81 | 394.4785 Children and Adolescents; admission and placement
82 | in mental health facilities.—

83 | (1) A child or adolescent as defined in s. 394.492 may not
84 | be admitted to a state-owned or state-operated mental health
85 | treatment facility. A child may be admitted pursuant to s.
86 | 394.4625 or s. 394.467 to a crisis stabilization unit or a
87 | residential treatment center licensed under this chapter or a
88 | hospital licensed under chapter 395. The treatment center, unit,
89 | or hospital must provide the least restrictive available
90 | treatment that is appropriate to the individual needs of the
91 | child or adolescent and must adhere to the guiding principles,
92 | system of care, and service planning provisions contained in
93 | part III of this chapter.

94 | (2) A person under the age of 14 who is admitted to any
95 | hospital licensed pursuant to chapter 395 may not be admitted to
96 | a bed in a room or ward with an adult patient in a mental health
97 | unit or share common areas with an adult patient in a mental
98 | health unit. However, a person 14 years of age or older may be
99 | admitted to a bed in a room or ward in the mental health unit
100 | with an adult if the admitting physician documents in the case

101 record that such placement is medically indicated or for reasons
102 of safety. Such placement shall be reviewed by the attending
103 physician or a designee or on-call physician each day and
104 documented in the case record.

105 (3) Within 24 hours after a person under the age of 18 is
106 admitted to a crisis stabilization unit or a residential
107 treatment center licensed under this chapter or a hospital
108 licensed under chapter 395, the facility administrator must
109 refer the case to the clerk of the court for the appointment of
110 a the public defender for potential initiation of a judicial
111 review hearing. An attorney who represents the minor shall have
112 access to all records relevant to the presentation of the
113 minor's case. All hearings involving children under the age of
114 18 shall be conducted in the physical presence of the child and
115 not by electronic or video means. A person who violates this
116 subsection commits a misdemeanor of the first degree, punishable
117 as provided in s. 775.082 or s. 775.083.

118 Section 3. Paragraph (a) of subsection (1) and subsection
119 (4) of section 394.4625, Florida Statutes, are amended to read:

120 394.4625 Voluntary admissions.—

121 (1) AUTHORITY TO RECEIVE PATIENTS.—

122 (a) A facility may receive for observation, diagnosis, or
123 treatment any person 18 years of age or older making application
124 to the facility by express and informed consent for admission or
125 any person age 17 or under for whom such application is made by

126 his or her parent or legal guardian. If found to show evidence
127 of mental illness, to be competent to provide express and
128 informed consent, and to be suitable for treatment, such person
129 18 years of age or older may be admitted to the facility.

130 1. Within 24 hours after a person age 17 or under is
131 admitted for observation, diagnosis, or treatment or transferred
132 to voluntary status pursuant to subsection (4), the
133 administrator of the facility shall file with the court in the
134 county where such person is located a petition for voluntary
135 placement. Such petition shall include all forms and information
136 as required by the department, including, but not limited to,
137 the application for voluntary admission or application to
138 transfer to voluntary status; the express and informed consent
139 of the person age 17 or under and his or her parent or legal
140 guardian to admission for treatment; certification that the
141 disclosures required under s. 394.459 to obtain such express and
142 informed consent were communicated to the person and his or her
143 parent or legal guardian; and pertinent demographic information
144 about the person and his or her parent or legal guardian,
145 including whether a parenting plan in a final judgment of
146 dissolution of marriage or a final judgment of paternity has
147 been entered, whether the parent or legal guardian is authorized
148 to make health care decisions on behalf of the person, and
149 certification that a copy of the final judgment or other
150 document that establishes the authority of the parent or legal

151 guardian has been or will be provided to the court. Upon filing,
152 the clerk of the court shall provide copies to the department,
153 to the person age 17 or under, and to his or her parent or legal
154 guardian. A fee may not be charged for the filing of a petition
155 under this subparagraph.

156 2. Unless a continuance is granted, a court shall hold a
157 hearing within 5 court working days after a person age 17 or
158 under ~~is may be~~ admitted ~~only after a hearing~~ to verify that the
159 ~~voluntariness of~~ the consent to admission is voluntary.

160 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient
161 who is 18 years of age or older and who applies to be
162 transferred to voluntary status, or an involuntary patient who
163 is age 17 or under and whose parent or legal guardian has made
164 application on his or her behalf to transfer to voluntary
165 status, shall be transferred to voluntary status immediately,
166 unless the patient has been charged with a crime, or has been
167 involuntarily placed for treatment by a court pursuant to s.
168 394.467 and continues to meet the criteria for involuntary
169 placement. Within 24 hours after transfer to voluntary status of
170 a person age 17 or under, the administrator of the facility
171 shall file a petition in accordance with subparagraph (1)(a)1. A
172 court shall hold a hearing within 5 court working days after
173 receiving a petition for voluntary placement for a patient age
174 17 or under to verify that the consent to remain in the facility
175 is voluntary. When transfer to voluntary status occurs, notice

176 shall be given as provided in s. 394.4599.

177 Section 4. Paragraph (a) of subsection (2) of section
178 394.499, Florida Statutes, is amended to read:

179 394.499 Integrated children's crisis stabilization
180 unit/juvenile addictions receiving facility services.—

181 (2) Children eligible to receive integrated children's
182 crisis stabilization unit/juvenile addictions receiving facility
183 services include:

184 (a) A person under 18 years of age for whom voluntary
185 application is made by his or her parent or legal guardian, if
186 such person is found to show evidence of mental illness and to
187 be suitable for treatment pursuant to s. 394.4625. The
188 administrator of the facility shall file a petition for
189 voluntary placement, pursuant to s. 394.4625, within 24 hours
190 after a person under 18 years of age is admitted for integrated
191 facility services. Unless a continuance is granted, a court
192 shall hold a hearing within 5 court working days after a person
193 under 18 years of age is ~~may be~~ admitted ~~for integrated facility~~
194 ~~services only after a hearing~~ to verify that the consent to
195 admission is voluntary.

196 Section 5. This act shall take effect July 1, 2019.