

1                   A bill to be entitled  
2           An act relating to mental health; amending s.  
3           394.4615, F.S.; requiring service providers to  
4           disclose information from a clinical record under  
5           certain circumstances relating to threats to cause  
6           seriously bodily injury or death; requiring a law  
7           enforcement agency that receives notification of a  
8           specific threat to take appropriate action; providing  
9           immunity for service providers for certain actions;  
10          amending s. 394.463, F.S.; revising deadlines for  
11          submission of documentation regarding involuntary  
12          examinations; requiring additional information be  
13          included in reports to the department; requiring the  
14          department to report to the Governor and Legislature  
15          on data collected from such reports; amending s.  
16          394.917, F.S.; revising the purpose of civil  
17          commitment of sexually violent predators to the  
18          department after completion of their criminal  
19          incarceration sentences; amending s. 456.059, F.S.;  
20          requiring psychiatrists to disclose certain patient  
21          communications for purposes of notifying law  
22          enforcement agencies of certain threats; requiring the  
23          notified law enforcement agency to take appropriate  
24          action to prevent the risk of harm to the victim;  
25          providing psychiatrists with immunity from specified

26 liability and actions under certain circumstances;  
27 amending s. 490.0147, F.S.; requiring psychologists to  
28 disclose certain patient or client communications for  
29 purposes of notifying law enforcement agencies of  
30 certain threats; requiring the notified law  
31 enforcement agency to take appropriate action to  
32 prevent the risk of harm to the victim; providing  
33 psychologists with immunity from specified liability  
34 and actions under certain circumstances; amending s.  
35 491.0147, F.S.; requiring certain license holders and  
36 certificate holders to disclose certain patient or  
37 client communications for purposes of notifying law  
38 enforcement agencies of certain threats; requiring the  
39 notified law enforcement agency to take appropriate  
40 action to prevent the risk of harm to the victim;  
41 providing such persons with immunity from specified  
42 liability and actions; amending s. 1012.583, F.S.;  
43 revising responsibilities of the Department of  
44 Education and the Statewide Office for Suicide  
45 Prevention; revising criteria for designation as a  
46 Suicide Prevention Certified School; requiring that  
47 the department, schools, and school districts post  
48 certain information regarding such schools be posted  
49 on their respective websites; reenacting ss. 490.009  
50 and 491.009, F.S., relating to discipline of

51 | discipline of psychologists and other licensed  
 52 | therapists, to incorporate amendments made by the act;  
 53 | providing an effective date.

54 |  
 55 | Be It Enacted by the Legislature of the State of Florida:

56 |  
 57 | Section 1. Subsections (4) through (11) of section  
 58 | 394.4615, Florida Statutes, are renumbered as subsections (5)  
 59 | through (12), respectively, paragraph (a) of subsection (3) is  
 60 | amended, and a new subsection (4) is added to that section, to  
 61 | read:

62 | 394.4615 Clinical records; confidentiality.—

63 | (3) Information from the clinical record may be released  
 64 | in the following circumstances:

65 | (a) When a patient has communicated to a service provider  
 66 | a specific threat to cause serious bodily injury or death to an  
 67 | identified or a readily available person, if the service  
 68 | provider reasonably believes, or should reasonably believe  
 69 | according to the standards of his or her profession, that the  
 70 | patient has the apparent intent and ability to imminently or  
 71 | immediately carry out such threat ~~declared an intention to harm~~  
 72 | ~~other persons~~. When such communication ~~declaration~~ has been  
 73 | made, the administrator may authorize the release of sufficient  
 74 | information to provide adequate warning to the person threatened  
 75 | with harm by the patient.

76  
77 For the purpose of determining whether a person meets the  
78 criteria for involuntary outpatient placement or for preparing  
79 the proposed treatment plan pursuant to s. 394.4655, the  
80 clinical record may be released to the state attorney, the  
81 public defender or the patient's private legal counsel, the  
82 court, and to the appropriate mental health professionals,  
83 including the service provider identified in s.  
84 394.4655(7)(b)2., in accordance with state and federal law.

85 (4) Information from the clinical record must be released  
86 when a patient has communicated to a service provider a specific  
87 threat to cause serious bodily injury or death to an identified  
88 or a readily available person, if the service provider  
89 reasonably believes, or should reasonably believe according to  
90 the standards of his or her profession, that the patient has the  
91 apparent intent and ability to imminently or immediately carry  
92 out such threat. When such communication has been made, the  
93 administrator must authorize the release of sufficient  
94 information to communicate the threat to law enforcement. A law  
95 enforcement agency that receives notification of a specific  
96 threat under this subsection must take appropriate action to  
97 prevent the risk of harm, including, but not limited to,  
98 notifying the intended victim of such threat or initiating a  
99 risk protection order. A service provider's authorization to  
100 release information from a clinical record when communicating a

101 threat pursuant to this section may not be the basis of any  
102 legal action or criminal or civil liability against the service  
103 provider.

104 Section 2. Paragraph (a) of subsection (2) of section  
105 394.463, Florida Statutes, is amended, and subsection (4) is  
106 added to that section, to read:

107 394.463 Involuntary examination.—

108 (2) INVOLUNTARY EXAMINATION.—

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

111 1. A circuit or county court may enter an ex parte order  
112 stating that a person appears to meet the criteria for  
113 involuntary examination and specifying the findings on which  
114 that conclusion is based. The ex parte order for involuntary  
115 examination must be based on written or oral sworn testimony  
116 that includes specific facts that support the findings. If other  
117 less restrictive means are not available, such as voluntary  
118 appearance for outpatient evaluation, a law enforcement officer,  
119 or other designated agent of the court, shall take the person  
120 into custody and deliver him or her to an appropriate, or the  
121 nearest, facility within the designated receiving system  
122 pursuant to s. 394.462 for involuntary examination. The order of  
123 the court shall be made a part of the patient's clinical record.  
124 A fee may not be charged for the filing of an order under this  
125 subsection. A facility accepting the patient based on this order

126 must send a copy of the order to the department within 5 ~~the~~  
127 ~~next~~ working days ~~day~~. The order may be submitted electronically  
128 through existing data systems, if available. The order shall be  
129 valid only until the person is delivered to the facility or for  
130 the period specified in the order itself, whichever comes first.  
131 If no time limit is specified in the order, the order shall be  
132 valid for 7 days after the date that the order was signed.

133 2. A law enforcement officer shall take a person who  
134 appears to meet the criteria for involuntary examination into  
135 custody and deliver the person or have him or her delivered to  
136 an appropriate, or the nearest, facility within the designated  
137 receiving system pursuant to s. 394.462 for examination. The  
138 officer shall execute a written report detailing the  
139 circumstances under which the person was taken into custody,  
140 which must be made a part of the patient's clinical record. Any  
141 facility accepting the patient based on this report must send a  
142 copy of the report to the department within 5 ~~the next~~ working  
143 days ~~day~~.

144 3. A physician, clinical psychologist, psychiatric nurse,  
145 mental health counselor, marriage and family therapist, or  
146 clinical social worker may execute a certificate stating that he  
147 or she has examined a person within the preceding 48 hours and  
148 finds that the person appears to meet the criteria for  
149 involuntary examination and stating the observations upon which  
150 that conclusion is based. If other less restrictive means, such

151 as voluntary appearance for outpatient evaluation, are not  
152 available, a law enforcement officer shall take into custody the  
153 person named in the certificate and deliver him or her to the  
154 appropriate, or nearest, facility within the designated  
155 receiving system pursuant to s. 394.462 for involuntary  
156 examination. The law enforcement officer shall execute a written  
157 report detailing the circumstances under which the person was  
158 taken into custody. The report and certificate shall be made a  
159 part of the patient's clinical record. Any facility accepting  
160 the patient based on this certificate must send a copy of the  
161 certificate to the department within 5 ~~the next~~ working days  
162 ~~day~~. The document may be submitted electronically through  
163 existing data systems, if applicable.

164  
165 When sending the order, report, or certificate to the  
166 department, a facility shall at a minimum provide information  
167 about which action was taken regarding the patient under  
168 paragraph (g), which information shall also be made a part of  
169 the patient's clinical record.

170 (4) DATA ANALYSIS.—Using data collected under paragraph  
171 (2) (a), the department shall, at a minimum, analyze data on the  
172 initiation of involuntary examinations of children, identify any  
173 patterns or trends and cases in which involuntary examinations  
174 are repeatedly initiated on the same child, study root causes  
175 for such patterns, trends, or repeated involuntary examinations,

176 and make recommendations for encouraging alternatives to and  
177 eliminating inappropriate initiations of such examinations. The  
178 department shall submit a report on its findings and  
179 recommendations to the Governor, the President of the Senate,  
180 and the Speaker of the House of Representatives by November 1 of  
181 each odd numbered year.

182 Section 3. Subsection (2) of section 394.917, Florida  
183 Statutes, is amended to read:

184 394.917 Determination; commitment procedure; mistrials;  
185 housing; counsel and costs in indigent appellate cases.—

186 (2) If the court or jury determines that the person is a  
187 sexually violent predator, upon the expiration of the  
188 incarcerative portion of all criminal sentences and disposition  
189 of any detainers, the person shall be committed to the custody  
190 of the Department of Children and Families for control, care,  
191 ~~and treatment,~~ and rehabilitation of criminal offenders, until  
192 such time as the person's mental abnormality or personality  
193 disorder has so changed that it is safe for the person to be at  
194 large. At all times, persons who are detained or committed under  
195 this part shall be kept in a secure facility segregated from  
196 patients of the department who are not detained or committed  
197 under this part.

198 Section 4. Section 456.059, Florida Statutes, is amended  
199 to read:

200 456.059 Communications confidential; exceptions.—



201 Communications between a patient and a psychiatrist, as defined  
202 in s. 394.455, shall be held confidential and may ~~shall~~ not be  
203 disclosed except upon the request of the patient or the  
204 patient's legal representative. Provision of psychiatric records  
205 and reports are ~~shall be~~ governed by s. 456.057. Notwithstanding  
206 any other provision of this section or s. 90.503, when ~~where~~:

207 (1) A patient is engaged in a treatment relationship with  
208 a psychiatrist;

209 (2) Such patient has communicated to the psychiatrist a  
210 specific threat to cause serious bodily injury or death to an  
211 identified or a readily available person ~~made an actual threat~~  
212 ~~to physically harm an identifiable victim or victims;~~ and

213 (3) The treating psychiatrist makes a clinical judgment  
214 that the patient has the apparent intent and ability to  
215 imminently or immediately carry out such threat ~~capability to~~  
216 ~~commit such an act and that it is more likely than not that in~~  
217 ~~the near future the patient will carry out that threat,~~

218  
219 the psychiatrist may disclose patient communications to the  
220 extent necessary to warn any potential victim ~~or~~ and must  
221 disclose patient communications to the extent necessary to  
222 communicate the threat to a law enforcement agency. A law  
223 enforcement agency that receives notification of a specific  
224 threat under this subsection must take appropriate action to  
225 prevent the risk of harm, including, but not limited to,

226 notifying the intended victim of such threat or initiating a  
227 risk protection order. A psychiatrist's disclosure of  
228 confidential communications when communicating a threat pursuant  
229 to this section may not be the basis of any legal action or  
230 criminal or civil liability against the psychiatrist ~~No civil or~~  
231 ~~criminal action shall be instituted, and there shall be no~~  
232 ~~liability on account of disclosure of otherwise confidential~~  
233 ~~communications by a psychiatrist in disclosing a threat pursuant~~  
234 ~~to this section.~~

235 Section 5. Section 490.0147, Florida Statutes, is amended  
236 to read:

237 490.0147 Confidentiality and privileged communications.—

238 (1) Any communication between a psychologist ~~any person~~  
239 ~~licensed under this chapter~~ and her or his patient or client is  
240 ~~shall be~~ confidential. This privilege may be waived under the  
241 following conditions:

242 (a) ~~(1)~~ When the psychologist ~~person licensed under this~~  
243 ~~chapter~~ is a party defendant to a civil, criminal, or  
244 disciplinary action arising from a complaint filed by the  
245 patient or client, in which case the waiver shall be limited to  
246 that action~~;~~;

247 (b) ~~(2)~~ When the patient or client agrees to the waiver, in  
248 writing, or when more than one person in a family is receiving  
249 therapy, when each family member agrees to the waiver, in  
250 writing~~;~~ or

251 (c) (3) When a patient or client has communicated to the  
252 psychologist a specific threat to cause serious bodily injury or  
253 death to an identified or readily available person, and the  
254 psychologist makes a clinical judgment that the patient or  
255 client has the apparent intent and ability to imminently or  
256 immediately carry out such threat and the psychologist ~~there is~~  
257 ~~a clear and immediate probability of physical harm to the~~  
258 ~~patient or client, to other individuals, or to society and the~~  
259 ~~person licensed under this chapter~~ communicates the information  
260 ~~only to the potential victim, appropriate family member, or law~~  
261 ~~enforcement or other appropriate authorities.~~ A disclosure of  
262 confidential communications by a psychologist when communicating  
263 a threat pursuant to this subsection may not be the basis of any  
264 legal action or criminal or civil liability against the  
265 psychologist.

266 (2) Such privilege must be waived, and the psychologist  
267 shall disclose patient or client communications to the extent  
268 necessary to communicate the threat to a law enforcement agency,  
269 if a patient or client has communicated to the psychologist a  
270 specific threat to cause serious bodily injury or death to an  
271 identified or readily available person, and the psychologist  
272 makes a clinical judgment that the patient or client has the  
273 apparent intent and ability to imminently or immediately carry  
274 out such threat. A law enforcement agency that receives  
275 notification of a specific threat under this subsection must

276 take appropriate action to prevent the risk of harm, including,  
277 but not limited to, notifying the intended victim of such threat  
278 or initiating a risk protection order. A psychologist's  
279 disclosure of confidential communications when communicating a  
280 threat pursuant to this subsection may not be the basis of any  
281 legal action or criminal or civil liability against the  
282 psychologist.

283 Section 6. Section 491.0147, Florida Statutes, is amended  
284 to read:

285 491.0147 Confidentiality and privileged communications.—  
286 Any communication between any person licensed or certified under  
287 this chapter and her or his patient or client is ~~shall be~~  
288 confidential.

289 (1) This privilege ~~secrecy~~ may be waived under the  
290 following conditions:

291 (a) ~~(1)~~ When the person licensed or certified under this  
292 chapter is a party defendant to a civil, criminal, or  
293 disciplinary action arising from a complaint filed by the  
294 patient or client, in which case the waiver shall be limited to  
295 that action.

296 (b) ~~(2)~~ When the patient or client agrees to the waiver, in  
297 writing, or, when more than one person in a family is receiving  
298 therapy, when each family member agrees to the waiver, in  
299 writing.

300 (c) ~~(3)~~ When a patient or client has communicated to the

301 person licensed or certified under this chapter a specific  
302 threat to cause serious bodily injury or death to an identified  
303 or readily available person, and the person licensed or  
304 certified under this chapter makes a clinical judgment that the  
305 patient or client has the apparent intent and ability to  
306 imminently or immediately carry out such threat, ~~in the clinical~~  
307 ~~judgment of the person licensed or certified under this chapter,~~  
308 ~~there is a clear and immediate probability of physical harm to~~  
309 ~~the patient or client, to other individuals, or to society and~~  
310 the person licensed or certified under this chapter communicates  
311 the information ~~only~~ to the potential victim, ~~appropriate family~~  
312 ~~member, or law enforcement or other appropriate authorities.~~  
313 ~~There shall be no liability on the part of, and no cause of~~  
314 ~~action of any nature shall arise against, a person licensed or~~  
315 ~~certified under this chapter for the disclosure of otherwise~~  
316 ~~confidential communications under this subsection. A disclosure~~  
317 of confidential communications by a person licensed or certified  
318 under this chapter when communicating a threat pursuant to this  
319 subsection may not be the basis of any legal action or criminal  
320 or civil liability against such person.

321 (2) This privilege must be waived, and the person licensed  
322 or certified under this chapter shall disclose patient or client  
323 communications to the extent necessary to communicate the threat  
324 to a law enforcement agency, if a patient or client has  
325 communicated to such person a specific threat to cause serious

326 bodily injury or death to an identified or readily available  
 327 person, and the person licensed or certified under this chapter  
 328 makes a clinical judgment that the patient or client has the  
 329 apparent intent and ability to imminently or immediately carry  
 330 out such threat. A law enforcement agency that receives  
 331 notification of a specific threat under this subsection must  
 332 take appropriate action to prevent the risk of harm, including,  
 333 but not limited to, notifying the intended victim of such threat  
 334 or initiating a risk protection order. A disclosure of  
 335 confidential communications by a person licensed or certified  
 336 under this chapter when communicating a threat pursuant to this  
 337 subsection may not be the basis of any legal action or criminal  
 338 or civil liability against such person.

339 Section 7. Section 1012.583, Florida Statutes, is amended  
 340 to read:

341 1012.583 Continuing education and inservice training for  
 342 youth suicide awareness and prevention.—

343 (1) By July 1, 2019 ~~Beginning with the 2016-2017 school~~  
 344 ~~year,~~ the Department of Education, in consultation with the  
 345 Statewide Office for Suicide Prevention and suicide prevention  
 346 experts, shall develop a list of approved youth suicide  
 347 awareness and prevention training materials and suicide  
 348 screening instruments that may be used for training in youth  
 349 suicide awareness, suicide ~~and~~ prevention, and suicide screening  
 350 for instructional personnel in elementary school, middle school,

351 and high school. The approved list of materials:

352 (a) Must identify available standardized suicide screening  
353 instruments appropriate for use with a school-age population and  
354 which have validity and reliability and include information  
355 about obtaining instruction in the administration and use of  
356 such instruments.

357 (b)~~(a)~~ Must include training on how to identify  
358 appropriate mental health services and how to refer youth and  
359 their families to those services.

360 (c)~~(b)~~ May include materials currently being used by a  
361 school district if such materials meet any criteria established  
362 by the department.

363 (d)~~(e)~~ May include programs that instructional personnel  
364 can complete through a self-review of approved youth suicide  
365 awareness and prevention materials.

366 (2) A school ~~that chooses to incorporate 2 hours of~~  
367 ~~training offered pursuant to this section~~ shall be considered a  
368 "Suicide Prevention Certified School-" if it:

369 (a) Incorporates 2 hours of training offered pursuant to  
370 this section. The training must be included in the existing  
371 continuing education or inservice training requirements for  
372 instructional personnel and may not add to the total hours  
373 currently required by the department. A school that chooses to  
374 participate in the training must require all instructional  
375 personnel to participate.

376        (b) Has at least two school-based staff members certified  
377 or otherwise deemed competent in the use of a suicide screening  
378 instrument approved pursuant to paragraph (1) (a) and has a  
379 policy to use such suicide risk screening instrument to evaluate  
380 a student's suicide risk before requesting the initiation of, or  
381 initiating, an involuntary examination due to concerns about  
382 that student's suicide risk.

383        (3) A school that meets the criteria in subsection (2)  
384 ~~participates in the suicide awareness and prevention training~~  
385 ~~pursuant to this section~~ must report its compliance  
386 ~~participation~~ to the department. The department shall keep an  
387 updated record of all Suicide Prevention Certified Schools and  
388 shall post the list of these schools on the department's  
389 website. Each school shall also post on its own website whether  
390 it is a Suicide Prevention Certified School, and each school  
391 district shall post on its district website a list of the  
392 suicide prevention certified schools in that district.

393        (4) A person has no cause of action for any loss or damage  
394 caused by an act or omission resulting from the implementation  
395 of this section or resulting from any training required by this  
396 section unless the loss or damage was caused by willful or  
397 wanton misconduct. This section does not create any new duty of  
398 care or basis of liability.

399        (5) The State Board of Education may adopt rules to  
400 implement this section.



401           Section 8. For the purpose of incorporating the amendment  
402 made by this act to section 490.0147, Florida Statutes, in a  
403 reference thereto, paragraph (u) of subsection (1) of section  
404 490.009, Florida Statutes, is reenacted to read:

405           490.009 Discipline.—

406           (1) The following acts constitute grounds for denial of a  
407 license or disciplinary action, as specified in s. 456.072(2):

408           (u) Failing to maintain in confidence a communication made  
409 by a patient or client in the context of such services, except  
410 as provided in s. 490.0147.

411           Section 9. For the purpose of incorporating the amendment  
412 made by this act to section 491.0147, Florida Statutes, in a  
413 reference thereto, paragraph (u) of subsection (1) of section  
414 491.009, Florida Statutes, is reenacted to read:

415           491.009 Discipline.—

416           (1) The following acts constitute grounds for denial of a  
417 license or disciplinary action, as specified in s. 456.072(2):

418           (u) Failure of the licensee, registered intern, or  
419 certificateholder to maintain in confidence a communication made  
420 by a patient or client in the context of such services, except  
421 as provided in s. 491.0147.

422           Section 10. This act shall take effect July 1, 2019.