

By Senator Farmer

34-01746-19

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1 A bill to be entitled
2 An act relating to the Marchman Act; providing a short
3 title; amending s. 397.311, F.S.; revising
4 definitions; amending s. 397.6760, F.S.; requiring,
5 rather than authorizing, a clerk of the court to
6 disclose certain records; amending s. 397.6772, F.S.;
7 removing provisions authorizing a law enforcement
8 officer to detain a person in certain facilities under
9 certain circumstances; amending s. 397.681, F.S.;
10 authorizing certain petitions to be pled concurrently;
11 providing that a violation of a court order is subject
12 to certain powers; amending s. 397.6811, F.S.;
13 authorizing certain persons to be held at certain
14 facilities for a specified timeframe; prohibiting a
15 licensed service provider from initiating proceedings
16 unless certain conditions are met; amending s.
17 397.6814, F.S.; requiring certain petitions to include
18 additional specified information; amending s.
19 397.6815, F.S.; revising provisions relating to the
20 procedures for filing certain petitions; authorizing a
21 petitioner to serve a respondent by private process;
22 requiring a court to schedule a hearing on certain
23 petitions within a specified timeframe; providing
24 duties of the court and the clerk of the court
25 relating to the issuance of a writ of bodily
26 attachment; amending s. 397.6818, F.S.; requiring,
27 rather than authorizing, a court to designate a
28 licensed service provider to perform an involuntary
29 assessment and stabilization in a specified order;

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30 requiring the court to make its findings based on
31 certain records within a specified timeframe;
32 requiring the court to schedule a hearing on a certain
33 petition within a specified timeframe; authorizing the
34 court to order a law enforcement agency to take a
35 respondent into custody for involuntary assessment by
36 a licensed service provider; amending s. 397.695,
37 F.S.; prohibiting a licensed service provider from
38 initiating proceedings unless certain conditions are
39 met; amending s. 397.6957, F.S.; revising provisions
40 relating to the duties of a court upon the filing of
41 certain petitions; amending ss. 397.675, 397.6758,
42 397.6799, 397.6822, 397.693, 397.6951, 397.6955,
43 397.697, and 397.6975, F.S.; conforming provisions to
44 changes made by the act; providing an effective date.
45

46 Be It Enacted by the Legislature of the State of Florida:
47

48 Section 1. This act may be cited as the "Substance Abuse
49 Services Modernization Act of 2019."

50 Section 2. Subsections (19) and (41) of section 397.311,
51 Florida Statutes, are amended to read:

52 397.311 Definitions.—As used in this chapter, except part
53 VIII, the term:

54 (19) "Impaired" or "substance abuse impaired" means a
55 condition involving the use of alcoholic beverages or any
56 psychoactive or mood-altering substance in such a manner as to
57 induce mental, emotional, or physical problems and cause
58 socially dysfunctional behavior. For purposes of this chapter, a

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59 person does not need to be under the influence of any substance
60 to be substance abuse impaired.

61 (41) "Secure facility," except where the context indicates
62 a correctional system facility, means a licensed provider that
63 has the authority pursuant to this chapter to deter the
64 premature departure of involuntary individuals whose leaving
65 constitutes a violation of a court order or community-based
66 supervision as provided by law. The term ~~"secure facility"~~
67 includes addictions receiving facilities, and facilities
68 authorized by local ordinance for the treatment of habitual
69 abusers, and crisis stabilization units or residential treatment
70 facilities licensed under s. 394.875.

71 Section 3. Section 397.675, Florida Statutes, is amended to
72 read:

73 397.675 Criteria for involuntary admissions, including
74 protective custody, emergency admission, and other involuntary
75 assessment, involuntary services treatment, and alternative
76 involuntary assessment for minors, for purposes of assessment
77 and stabilization, and for involuntary services treatment.—A
78 person meets the criteria for involuntary admission if there is
79 a good faith reason to believe that the person is substance
80 abuse impaired or has a co-occurring mental health disorder and,
81 because of such impairment or disorder:

82 (1) Has lost the power of self-control with respect to
83 substance abuse; and

84 (2) (a) Is in need of substance abuse services and, by
85 reason of substance abuse impairment, his or her judgment has
86 been so impaired that he or she is incapable of appreciating his
87 or her need for such services and of making a rational decision

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88 in that regard, although mere refusal to receive such services
89 does not constitute evidence of lack of judgment with respect to
90 his or her need for such services; or

91 (b) Without care or services ~~treatment~~, is likely to suffer
92 from neglect or refuse to care for himself or herself; that such
93 neglect or refusal poses a real and present threat of
94 substantial harm to his or her well-being; and that it is not
95 apparent that such harm may be avoided through the help of
96 willing family members or friends or the provision of other
97 services, or there is substantial likelihood that the person has
98 inflicted, or threatened to or attempted to inflict, or, unless
99 admitted, is likely to inflict, physical or emotional harm on
100 himself, herself, or another.

101 Section 4. Section 397.6758, Florida Statutes, is amended
102 to read:

103 397.6758 Release of individual from protective custody,
104 emergency admission, involuntary assessment, involuntary
105 services ~~treatment~~, and alternative involuntary assessment of a
106 minor.—An individual involuntarily admitted to a licensed
107 service provider may be released without further order of the
108 court only by a qualified professional in a hospital, a
109 detoxification facility, an addictions receiving facility, or
110 any less restrictive services ~~treatment~~ component. Notice of the
111 release must be provided to the applicant in the case of an
112 emergency admission or an alternative involuntary assessment for
113 a minor, or to the petitioner and the court if the involuntary
114 assessment or services were ~~treatment was~~ court ordered. In the
115 case of a minor, the release must be:

116 (1) To the individual's parent, legal guardian, or legal

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117 custodian or the authorized designee thereof;

118 (2) To the Department of Children and Families pursuant to
119 s. 39.401; or

120 (3) To the Department of Juvenile Justice pursuant to s.
121 984.13.

122 Section 5. Subsection (1) of section 397.6760, Florida
123 Statutes, is amended to read:

124 397.6760 Court records; confidentiality.—

125 (1) All petitions for involuntary assessment and
126 stabilization, court orders, and related records that are filed
127 with or by a court under this part are confidential and exempt
128 from s. 119.071(1) and s. 24(a), Art. I of the State
129 Constitution. Pleadings and other documents made confidential
130 and exempt by this section shall ~~may~~ be disclosed by the clerk
131 of the court, upon request, to any of the following:

132 (a) The petitioner.

133 (b) The petitioner's attorney.

134 (c) The respondent.

135 (d) The respondent's attorney.

136 (e) The respondent's guardian or guardian advocate, if
137 applicable.

138 (f) In the case of a minor respondent, the respondent's
139 parent, guardian, legal custodian, or guardian advocate.

140 (g) The respondent's treating health care practitioner.

141 (h) The respondent's health care surrogate or proxy.

142 (i) The Department of Children and Families, without
143 charge.

144 (j) The Department of Corrections, without charge, if the
145 respondent is committed or is to be returned to the custody of

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146 the Department of Corrections from the Department of Children
147 and Families.

148 (k) A person or entity authorized to view records upon a
149 court order for good cause. In determining if there is good
150 cause for the disclosure of records, the court must weigh the
151 person or entity's need for the information against potential
152 harm to the respondent from the disclosure.

153 Section 6. Subsection (1) of section 397.6772, Florida
154 Statutes, is amended to read:

155 397.6772 Protective custody without consent.—

156 (1) If a person in circumstances which justify protective
157 custody as described in s. 397.677 fails or refuses to consent
158 to assistance and a law enforcement officer has determined that
159 a hospital or a licensed detoxification or addictions receiving
160 facility is the most appropriate place for the person, the
161 officer may, after giving due consideration to the expressed
162 wishes of the person, +

163 ~~(a)~~ take the person to a hospital or to a licensed
164 detoxification or addictions receiving facility against the
165 person's will but without using unreasonable force. The officer
166 shall use the standard form developed by the department pursuant
167 to s. 397.321 to execute a written report detailing the
168 circumstances under which the person was taken into custody. The
169 written report shall be included in the patient's clinical
170 record; ~~or~~

171 ~~(b) In the case of an adult, detain the person for his or~~
172 ~~her own protection in any municipal or county jail or other~~
173 ~~appropriate detention facility.~~

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175 ~~Such detention is not to be considered an arrest for any~~
176 ~~purpose, and no entry or other record may be made to indicate~~
177 ~~that the person has been detained or charged with any crime. The~~
178 ~~officer in charge of the detention facility must notify the~~
179 ~~nearest appropriate licensed service provider within the first 8~~
180 ~~hours after detention that the person has been detained. It is~~
181 ~~the duty of the detention facility to arrange, as necessary, for~~
182 ~~transportation of the person to an appropriate licensed service~~
183 ~~provider with an available bed. Persons taken into protective~~
184 ~~eustody must be assessed by the attending physician within the~~
185 ~~72-hour period and without unnecessary delay, to determine the~~
186 ~~need for further services.~~

187 Section 7. Section 397.6799, Florida Statutes, is amended
188 to read:

189 397.6799 Disposition of minor upon completion of
190 alternative involuntary assessment.—A minor who has been
191 assessed pursuant to s. 397.6798 must, within the time
192 specified, be released or referred for further voluntary or
193 involuntary services ~~treatment~~, whichever is most appropriate to
194 the needs of the minor.

195 Section 8. Section 397.681, Florida Statutes, is amended to
196 read:

197 397.681 Involuntary petitions; general provisions; court
198 jurisdiction and right to counsel.—

199 (1) JURISDICTION.—The courts have jurisdiction of
200 involuntary assessment and stabilization petitions and
201 involuntary services ~~treatment~~ petitions for substance abuse
202 impaired persons. Petitions for involuntary assessment and
203 stabilization and petitions for involuntary services may be pled

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204 concurrently, and such petitions shall ~~must~~ be filed with the
205 clerk of the court in the county where the person is located.
206 ~~The clerk of the court may not charge~~ A fee may not be charged
207 for the filing of a petition pursuant to ~~under~~ this section. The
208 chief judge may appoint a general or special magistrate to
209 preside over all or part of the proceedings. The alleged
210 impaired person is named as the respondent. Any violation of a
211 court order by a named respondent is subject to the contempt
212 powers of the court.

213 (2) RIGHT TO COUNSEL.—A respondent has the right to counsel
214 at every stage of a proceeding relating to a petition for his or
215 her involuntary assessment and stabilization and a petition for
216 his or her involuntary services ~~treatment~~ for substance abuse
217 impairment. A respondent who desires counsel and is unable to
218 afford private counsel has the right to court-appointed counsel
219 and to the benefits of s. 57.081. If the court believes that the
220 respondent needs the assistance of counsel, the court shall
221 appoint such counsel for the respondent without regard to the
222 respondent's wishes. If the respondent is a minor not otherwise
223 represented in the proceeding, the court shall immediately
224 appoint a guardian ad litem to act on the minor's behalf.

225 Section 9. Section 397.6811, Florida Statutes, is amended
226 to read:

227 397.6811 Involuntary assessment and stabilization.—A person
228 determined by the court to appear to meet the criteria for
229 involuntary admission under s. 397.675 may be admitted ~~for a~~
230 period of 5 days to and held at a hospital or ~~to~~ a licensed
231 detoxification facility or addictions receiving facility for a
232 period of 5 days or more pursuant to s. 397.6822(3)~~7~~ for

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233 involuntary assessment and stabilization or to a less
234 restrictive component of a licensed service provider for
235 assessment only upon entry of a court order or upon receipt by
236 the licensed service provider of a petition. Involuntary
237 assessment and stabilization may be initiated by the submission
238 of a petition to the court.

239 (1) If the person upon whose behalf the petition is being
240 filed is an adult, a petition for involuntary assessment and
241 stabilization may be filed by the respondent's spouse or legal
242 guardian, any relative, a private practitioner, the director of
243 a licensed service provider or the director's designee, or an
244 adult who has ~~direct~~ personal knowledge of the respondent's
245 substance abuse impairment.

246 (2) If the person upon whose behalf the petition is being
247 filed is a minor, a petition for involuntary assessment and
248 stabilization may be filed by a parent, legal guardian, legal
249 custodian, or licensed service provider.

250 (3) A licensed service provider may not initiate any
251 proceedings under this chapter unless the licensed service
252 provider files a joint petition with an independent petitioner
253 who has no financial interest in the licensed service provider
254 or unless no other petitioner exists.

255 Section 10. Section 397.6814, Florida Statutes, is amended
256 to read:

257 397.6814 Involuntary assessment and stabilization; contents
258 of petition.—A petition for involuntary assessment and
259 stabilization must contain the name of the respondent, the
260 current location of the respondent in the county where the
261 petition has been filed, the name of the applicant or

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262 applicants, the relationship between the respondent and the
263 applicant, and the name of the respondent's attorney, if known,
264 and must state any request for a designation of a prearranged
265 service provider for involuntary assessment and stabilization
266 and sworn facts to support the need for involuntary assessment
267 and stabilization, including facts to support that the
268 respondent:

269 (1) Has lost the power of self-control with respect to
270 substance abuse ~~The reason for the petitioner's belief that the~~
271 ~~respondent is substance abuse impaired;~~

272 ~~(2) The reason for the petitioner's belief that because of~~
273 ~~such impairment the respondent has lost the power of self-~~
274 ~~control with respect to substance abuse; and~~

275 (2)(3)(a) Is in need of substance abuse services and, by
276 reason of substance abuse impairment, his or her judgment has
277 been so impaired that he or she is incapable of appreciating his
278 or her need for such services and of making a rational decision
279 in that regard, although mere refusal to receive such services
280 does not constitute evidence of lack of judgment with respect to
281 his or her need for such services ~~The reason the petitioner~~
282 ~~believes that the respondent has inflicted or is likely to~~
283 ~~inflict physical harm on himself or herself or others unless~~
284 ~~admitted; or~~

285 (b) Without care or services, is likely to suffer from
286 neglect or refuse to care for himself or herself; that such
287 neglect or refusal poses a real and present threat of
288 substantial harm to his or her well-being; and that it is not
289 apparent that such harm may be avoided through the help of
290 willing family members or friends or the provision of other

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291 services, or there is substantial likelihood that the person has
292 inflicted, or threatened to or attempted to inflict, or, unless
293 admitted, is likely to inflict, physical or emotional harm on
294 himself, herself, or another ~~The reason the petitioner believes~~
295 ~~that the respondent's refusal to voluntarily receive care is~~
296 ~~based on judgment so impaired by reason of substance abuse that~~
297 ~~the respondent is incapable of appreciating his or her need for~~
298 ~~care and of making a rational decision regarding that need for~~
299 ~~care. If the respondent has refused to submit to an assessment,~~
300 ~~such refusal must be alleged in the petition.~~

301
302 ~~A fee may not be charged for the filing of a petition pursuant~~
303 ~~to this section.~~

304 Section 11. Section 397.6815, Florida Statutes, is amended
305 to read:

306 397.6815 Involuntary assessment and stabilization;
307 procedure.—

308 (1) Upon receipt and filing of the petition for the
309 involuntary assessment and stabilization of a substance abuse
310 impaired person by the clerk of the court, the court shall
311 review the petition and ascertain whether the respondent is
312 represented by an attorney, and if not, whether, on the basis of
313 the petition, an attorney should be appointed,† and shall
314 either:

315 (a) ~~(1)~~ Provide a copy of the petition and notice of hearing
316 to the respondent; the respondent's parent, guardian, or legal
317 custodian, in the case of a minor; the respondent's attorney, if
318 known; the petitioner; the respondent's spouse or guardian, if
319 applicable; and such other persons as the court may direct, and

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320 have such petition and notice personally delivered to the
321 respondent if he or she is a minor. The court shall also issue a
322 summons to the person whose admission is sought and conduct a
323 hearing within 10 calendar days. The petitioner, individually or
324 through counsel, may serve the respondent with notice of the
325 petition, summons, and court dates by private process; or

326 (b)(2) Without the appointment of an attorney and, relying
327 solely on the contents of the petition, enter an ex parte order
328 authorizing the involuntary assessment and stabilization of the
329 respondent. The court shall schedule a hearing to be held on any
330 petition for involuntary services filed concurrently with the
331 involuntary assessment and stabilization petition within 10
332 calendar days after the execution of the ex parte order. The
333 court shall:

334 1. Issue a writ of bodily attachment and may order a law
335 enforcement agency officer or other designated agent of the
336 court to take the respondent into custody and deliver him or her
337 to the nearest appropriate licensed service provider or a
338 licensed service provider designated and ordered by the court;

339 2. Order that if the writ is executed in another county,
340 the respondent shall be taken to the nearest receiving facility
341 within such county; and

342 3. Order the licensed service provider to provide the court
343 an assessment with recommendations indicating any need for
344 services within 48 hours after completion of the assessment.

345 (2) The clerk of the court shall provide the writ of bodily
346 attachment, order, petition, and notice of any scheduled court
347 dates to a local law enforcement agency. The writ of bodily
348 attachment, order, petition, and notice of any scheduled court

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349 dates shall be served upon the respondent by the law enforcement
350 agency executing the ex parte order at the time such respondent
351 is taken into custody. Such order shall be in full force and
352 effect for at least 30 calendar days after the date of its
353 execution. If a scheduled hearing to be held on a petition for
354 services, which was filed concurrently pursuant to this section,
355 will not occur due to the respondent not being taken into
356 custody and delivered pursuant to the ex parte order, the court
357 shall amend its order and reschedule the hearing within 10
358 calendar days after the previously scheduled hearing date. The
359 clerk of the court shall provide the amended ex parte order to
360 the law enforcement agency designated by the court.

361 Section 12. Section 397.6818, Florida Statutes, is amended
362 to read:

363 397.6818 Court determination.—At the hearing initiated in
364 accordance with s. 397.6811(1), the court shall hear all
365 relevant testimony. The respondent must be present unless the
366 court has reason to believe that his or her presence is likely
367 to be injurious to him or her, in which event the court shall
368 appoint a guardian advocate to represent the respondent. The
369 respondent has the right to examination ~~by a court appointed~~
370 ~~qualified professional~~. After hearing all the evidence, the
371 court shall determine whether there is a reasonable basis to
372 believe the respondent meets the involuntary admission criteria
373 of s. 397.675.

374 (1) Based on its determination, the court shall either
375 dismiss the petition or immediately enter an order authorizing
376 the involuntary assessment and stabilization of the respondent;
377 or, if in the course of the hearing the court has reason to

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378 believe that the respondent, due to mental illness other than or
379 in addition to substance abuse impairment, is likely to injure
380 himself or herself or another if allowed to remain at liberty,
381 the court may initiate involuntary proceedings under the
382 provisions of part I of chapter 394.

383 (2) If the court enters an order authorizing involuntary
384 assessment and stabilization, the order shall include the
385 court's findings with respect to the availability and
386 appropriateness of the least restrictive alternatives and the
387 need for the appointment of an attorney to represent the
388 respondent, and must ~~may~~ designate the specific licensed service
389 provider to perform the involuntary assessment and stabilization
390 of the respondent. The respondent may choose the licensed
391 service provider to deliver the involuntary assessment when
392 ~~where~~ possible and appropriate. The court shall make its
393 findings based on records released pursuant to s. 397.501(7), if
394 any, within 7 calendar days after the entry of its order
395 authorizing involuntary assessment and stabilization.

396 (3) Within 10 calendar days after the entry of its order
397 authorizing involuntary assessment and stabilization, the court
398 shall schedule a hearing to be held on a petition for
399 involuntary services to determine if any further proceedings,
400 including an order for such services, are warranted.

401 (4) If the court finds it necessary, it may order any law
402 enforcement agency or the sheriff to take the respondent into
403 custody and deliver him or her to the licensed service provider
404 specified in the court order or, if none is specified, to the
405 nearest appropriate licensed service provider for involuntary
406 assessment.

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407 ~~(4) The order is valid only for the period specified in the~~
408 ~~order or, if a period is not specified, for 7 days after the~~
409 ~~order is signed.~~

410 Section 13. Subsection (3) of section 397.6822, Florida
411 Statutes, is amended to read:

412 397.6822 Disposition of individual after involuntary
413 assessment.—Based upon the involuntary assessment, a qualified
414 professional of the hospital, detoxification facility, or
415 addictions receiving facility, or a qualified professional when
416 a less restrictive component has been used, must:

417 (3) Retain the individual when a petition for involuntary
418 services ~~treatment~~ has been initiated, the timely filing of
419 which authorizes the service provider to retain physical custody
420 of the individual pending further order of the court.

421
422 Adhering to federal confidentiality regulations, notice of
423 disposition must be provided to the petitioner and to the court.

424 Section 14. Section 397.693, Florida Statutes, is amended
425 to read:

426 397.693 Involuntary services ~~treatment~~.—A person may be the
427 subject of a petition for court-ordered involuntary services
428 ~~treatment~~ pursuant to this part, if that person meets the
429 criteria for involuntary admission provided in s. 397.675 and:

430 (1) Has been placed under protective custody pursuant to s.
431 397.677 within the previous 10 calendar days;

432 (2) Has been subject to an emergency admission pursuant to
433 s. 397.679 within the previous 10 calendar days;

434 (3) Has been assessed by a qualified professional within 10
435 calendar ~~5~~ days;

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436 (4) Has been subject to involuntary assessment and
 437 stabilization pursuant to s. 397.6818 within the previous 12
 438 calendar days; or

439 (5) Has been subject to alternative involuntary admission
 440 pursuant to s. 397.6822 within the previous 12 calendar days.

441 Section 15. Section 397.695, Florida Statutes, is amended
 442 to read:

443 397.695 Involuntary services; persons who may petition.—

444 (1) If the respondent is an adult, a petition for
 445 involuntary services may be filed by the respondent's spouse or
 446 legal guardian, any relative, a licensed service provider, or an
 447 adult who has ~~direct~~ personal knowledge of the respondent's
 448 substance abuse impairment and his or her prior course of
 449 assessment and services ~~treatment~~.

450 (2) If the respondent is a minor, a petition for
 451 involuntary services ~~treatment~~ may be filed by a parent, legal
 452 guardian, or licensed service provider.

453 (3) A licensed service provider may not initiate any
 454 proceedings under this chapter unless the licensed service
 455 provider files a joint petition with an independent petitioner
 456 who has no financial interest in the licensed service provider
 457 or unless no other petitioner exists.

458 Section 16. Section 397.6951, Florida Statutes, is amended
 459 to read:

460 397.6951 Contents of petition for involuntary services.—A
 461 petition for involuntary services must contain the name of the
 462 respondent; the name of the petitioner or petitioners; the
 463 relationship between the respondent and the petitioner; the name
 464 of the respondent's attorney, if known; the findings and

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465 recommendations of the assessment performed by the qualified
466 professional, if known; and the factual allegations presented by
467 the petitioner establishing the need for involuntary ~~outpatient~~
468 services. The factual allegations must demonstrate that the
469 respondent:

470 (1) Has lost the power of self-control with respect to
471 substance abuse ~~The reason for the petitioner's belief that the~~
472 ~~respondent is substance abuse impaired;~~

473 ~~(2) The reason for the petitioner's belief that because of~~
474 ~~such impairment the respondent has lost the power of self-~~
475 ~~control with respect to substance abuse; and~~

476 (2)(3)(a) Is in need of substance abuse services and, by
477 reason of substance abuse impairment, his or her judgment has
478 been so impaired that he or she is incapable of appreciating his
479 or her need for such services and of making a rational decision
480 in that regard, although mere refusal to receive such services
481 does not constitute evidence of lack of judgment with respect to
482 his or her need for such services ~~The reason the petitioner~~
483 ~~believes that the respondent has inflicted or is likely to~~
484 ~~inflict physical harm on himself or herself or others unless the~~
485 ~~court orders the involuntary services; or~~

486 (b) Without care or services, is likely to suffer from
487 neglect or refuse to care for himself or herself; that such
488 neglect or refusal poses a real and present threat of
489 substantial harm to his or her well-being; and that it is not
490 apparent that such harm may be avoided through the help of
491 willing family members or friends or the provision of other
492 services, or there is substantial likelihood that the person has
493 inflicted, or threatened to or attempted to inflict, or, unless

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494 admitted, is likely to inflict, physical or emotional harm on
495 himself, herself, or another ~~The reason the petitioner believes~~
496 ~~that the respondent's refusal to voluntarily receive care is~~
497 ~~based on judgment so impaired by reason of substance abuse that~~
498 ~~the respondent is incapable of appreciating his or her need for~~
499 ~~care and of making a rational decision regarding that need for~~
500 ~~care.~~

501 Section 17. Section 397.6955, Florida Statutes, is amended
502 to read:

503 397.6955 Duties of court upon filing of petition for
504 involuntary services.-

505 (1) Upon the filing of a petition for involuntary services,
506 which is not included as part of an initial assessment and
507 stabilization petition, for a substance abuse impaired person
508 with the clerk of the court, the court shall immediately
509 determine whether the respondent is represented by an attorney
510 or whether the appointment of counsel for the respondent is
511 appropriate. If the court appoints counsel for the person, the
512 clerk of the court shall immediately notify the office of
513 criminal conflict and civil regional counsel, created pursuant
514 to s. 27.511, of the appointment. The office of criminal
515 conflict and civil regional counsel shall represent the person
516 until the petition is dismissed, the court order expires, or the
517 person is discharged from involuntary services. An attorney that
518 represents the person named in the petition shall have access to
519 the person, witnesses, and records relevant to the presentation
520 of the person's case and shall represent the interests of the
521 person, regardless of the source of payment to the attorney.

522 (2) The court shall schedule a hearing to be held on the

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523 petition within 5 calendar days unless a continuance is granted.
524 The court may appoint a magistrate to preside at the hearing.

525 (3) A copy of the petition and notice of the hearing must
526 be provided to the respondent; the respondent's parent,
527 guardian, or legal custodian, in the case of a minor; the
528 respondent's attorney, if known; the petitioner; the
529 respondent's spouse or guardian, if applicable; and such other
530 persons as the court may direct. If the respondent is a minor, a
531 copy of the petition and notice of the hearing must be
532 personally delivered to the respondent. The court shall also
533 issue a summons to the person whose admission is sought. The
534 petitioner, individually or through counsel, may serve the
535 respondent with notice of the petition, summons, and court dates
536 by private process.

537 Section 18. Section 397.6957, Florida Statutes, is amended
538 to read:

539 397.6957 Hearing on petition for involuntary services.—

540 (1) At a hearing on a petition for involuntary services,
541 the court shall hear and review all relevant evidence, including
542 the review of results of the assessment completed by the
543 qualified professional in connection with the respondent's
544 protective custody, emergency admission, involuntary assessment,
545 or alternative involuntary admission. The respondent must be
546 present unless the court finds that his or her presence is
547 likely to be injurious to himself or herself or others, in which
548 event the court must appoint a guardian advocate to act in
549 behalf of the respondent throughout the proceedings. If the
550 respondent fails to appear for the hearing after proper notice,
551 or is unwilling to submit to the court-ordered services, the

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552 court may proceed with the hearing and enter an order for
553 services.

554 (2) The petitioner has the burden of proving by clear and
555 convincing evidence that the respondent:

556 (a) Has lost the power of self-control with respect to ~~The~~
557 ~~respondent is substance abuse impaired and has a history of lack~~
558 ~~of compliance with treatment for substance abuse; and~~

559 (b) 1. Is in need of substance abuse services and, by reason
560 of substance abuse impairment, his or her judgment has been so
561 impaired that he or she is incapable of appreciating his or her
562 need for such services and of making a rational decision in that
563 regard, although mere refusal to receive such services does not
564 constitute evidence of lack of judgment with respect to his or
565 her need for such services; or ~~Because of such impairment the~~
566 ~~respondent is unlikely to voluntarily participate in the~~
567 ~~recommended services or is unable to determine for himself or~~
568 ~~herself whether services are necessary and:~~

569 2.1. Without care or services, the respondent is likely to
570 suffer from neglect or refuse to care for himself or herself;
571 that such neglect or refusal poses a real and present threat of
572 substantial harm to his or her well-being; and that it is not
573 apparent that such harm may be avoided through the help of
574 willing family members or friends or the provision of other
575 services, or ~~that~~ there is a substantial likelihood that ~~without~~
576 ~~services~~ the person has inflicted, or threatened to or attempted
577 to inflict, or, unless admitted, is likely to inflict, physical
578 or emotional ~~respondent will cause serious bodily harm on~~ to
579 himself, herself, or another in the near future, as evidenced by
580 recent behavior; or

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581 ~~2. The respondent's refusal to voluntarily receive care is~~
582 ~~based on judgment so impaired by reason of substance abuse that~~
583 ~~the respondent is incapable of appreciating his or her need for~~
584 ~~care and of making a rational decision regarding that need for~~
585 ~~care.~~

586 (3) ~~A One of the qualified professional professionals~~ who
587 executed ~~an the~~ involuntary services certificate pursuant to s.
588 397.679 must be a witness. The court shall allow testimony from
589 individuals, including family members, deemed by the court to be
590 relevant under state law, regarding the respondent's prior
591 history and how that prior history relates to the person's
592 current condition. The testimony in the hearing must be under
593 oath, and the proceedings must be recorded. The patient may
594 refuse to testify at the hearing.

595 (4) At the conclusion of the hearing the court shall
596 dismiss the petition or order the respondent to receive
597 involuntary services from his or her chosen licensed service
598 provider if possible and appropriate or a licensed service
599 provider designated by the court. The court may, on its own
600 motion or on the motion of any party, schedule a status
601 conference for the purpose of monitoring the respondent's
602 continued compliance with the court's order for services. Based
603 upon its findings made after reviewing the records released
604 pursuant to s. 397.501(7), the court may order the designated
605 licensed service provider to provide the court and petitioner or
606 the petitioner's counsel with a status report of the
607 respondent's current treatment and compliance with the court
608 order.

609 Section 19. Subsection (1) of section 397.697, Florida

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610 Statutes, is amended to read:

611 397.697 Court determination; effect of court order for
612 involuntary services.—

613 (1) When the court finds that the conditions for
614 involuntary services have been proved by clear and convincing
615 evidence, it may order the respondent to receive involuntary
616 services from a publicly funded licensed service provider for a
617 period not to exceed 90 days. The court may also order a
618 respondent to undergo services ~~treatment~~ through a privately
619 funded licensed service provider if the respondent has the
620 ability to pay for the services ~~treatment~~, or if any person on
621 the respondent's behalf voluntarily demonstrates a willingness
622 and an ability to pay for the services ~~treatment~~. If the court
623 finds it necessary, it may direct any law enforcement agency or
624 the sheriff to take the respondent into custody and deliver him
625 or her to the licensed service provider specified in the court
626 order, or to the nearest appropriate licensed service provider,
627 for involuntary services. When the conditions justifying
628 involuntary services no longer exist, the individual must be
629 released as provided in s. 397.6971. When the conditions
630 justifying involuntary services are expected to exist after 90
631 days of services, a renewal of the involuntary services order
632 may be requested pursuant to s. 397.6975 before the end of the
633 90-day period.

634 Section 20. Subsections (1) and (7) of section 397.6975,
635 Florida Statutes, are amended to read:

636 397.6975 Extension of involuntary services period.—

637 (1) Whenever any petitioner or a licensed service provider
638 believes that an individual who is nearing the scheduled date of

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639 his or her release from involuntary services continues to meet
640 the criteria for involuntary services in s. 397.693, a petition
641 for renewal of the involuntary services order may be filed with
642 the court at least 10 days before the expiration of the court-
643 ordered services period. The court shall immediately schedule a
644 hearing to be held not more than 15 days after filing of the
645 petition. The court shall provide the copy of the petition for
646 renewal and the notice of the hearing to all parties to the
647 proceeding. The hearing is conducted pursuant to s. 397.6957.

648 (7) If the respondent has previously been found incompetent
649 to consent to services ~~treatment~~, the court shall consider
650 testimony and evidence regarding the respondent's competence.

651 Section 21. This act shall take effect July 1, 2019.