

1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 394.455, F.S.; conforming a cross-
4 reference; amending s. 394.459, F.S.; revising review
5 requirements for specified restrictions relating to a
6 patient's right to communicate or to receive visitors;
7 requiring that a facility provide certain information,
8 in writing, to patients with a serious mental illness,
9 upon discharge from the facility; amending s. 394.461,
10 F.S.; authorizing the state to establish that a
11 transfer evaluation was performed and the evaluation
12 document properly executed by providing the court with
13 a copy of the evaluation before the close of the
14 state's case in chief; prohibiting the court from
15 considering substantive information in the transfer
16 evaluation unless the evaluator or current treating
17 provider testifies at the hearing; requiring a
18 facility to inform the Department of Children and
19 Families regarding certain persons examined or
20 committed at the facility within a specified
21 timeframe; amending s. 394.462, F.S.; conforming
22 cross-references; amending s. 394.4625, F.S.; revising
23 provisions relating to the voluntary admission of
24 minors to a facility for examination and treatment;
25 requiring that a minor's assent to voluntary care be

26 | verified; amending s. 394.463, F.S.; requiring law
27 | enforcement officers transporting individuals for
28 | involuntary treatment to take certain actions;
29 | revising requirements for reports relating to
30 | involuntary treatment; revising approval requirements
31 | for release of a patient by a receiving facility;
32 | specifying when the examination period begins for a
33 | patient arriving at a receiving facility; amending s.
34 | 394.467, F.S.; revising requirements for continuances
35 | of hearings; revising the conditions under which a
36 | court may waive the requirement for a patient to be
37 | present at an involuntary inpatient placement hearing;
38 | authorizing the court to permit all witnesses to
39 | attend and testify remotely at the hearing through
40 | certain means under certain circumstances; requiring
41 | facilities to make certain clinical records available
42 | to a state attorney and the respondent's attorney
43 | within a specified timeframe; specifying that such
44 | records remain confidential and may not be used for
45 | certain purposes; revising when the court may appoint
46 | a magistrate; requiring the court to allow certain
47 | testimony from certain individuals; revising the
48 | amount of time a court may require a patient to
49 | receive services; requiring facilities to discharge
50 | patients after the patient no longer meets the

51 criteria for involuntary treatment; prohibiting courts
52 from ordering that individuals with developmental
53 disabilities be involuntarily placed in a state
54 treatment facility; making conforming changes;
55 amending ss. 394.495 and 394.496, F.S.; conforming
56 provisions to changes made by the act; amending s.
57 394.499, F.S.; making a technical change; conforming a
58 provision to changes made by the act; amending s.
59 394.9086; revising meeting requirements of the
60 Commission on Mental Health and Substance Abuse;
61 authorizing reimbursement for per diem and travel
62 expenses for commission members; authorizing the
63 commission to access certain records; extending the
64 date by which the commission must submit a certain
65 interim report to the Governor and Legislature;
66 amending s. 397.305, F.S.; revising the purpose of ch.
67 397, F.S.; amending s. 397.311, F.S.; revising
68 definitions; creating s. 397.341, F.S.; requiring law
69 enforcement officers transporting individuals for
70 treatment to take certain actions; amending s.
71 397.501, F.S.; requiring that a facility provide
72 certain information, in writing, to individuals with
73 substance use disorders, upon discharge from the
74 facility; amending s. 397.675, F.S.; including co-
75 occurring substance use disorders as a basis for

76 applying criteria for involuntary admissions; amending
77 s. 397.6751, F.S.; revising the responsibilities of a
78 service provider; amending s. 397.681, F.S.; revising
79 where involuntary treatment petitions for substance
80 abuse impaired persons may be filed; revising what
81 part of such proceedings a general or special
82 magistrate may preside over; conforming provisions to
83 changes made by the act; repealing s. 397.6811, F.S.,
84 relating to involuntary assessment and stabilization;
85 repealing s. 397.6814, F.S., relating to petitions for
86 involuntary assessment and stabilization; repealing s.
87 397.6815, F.S., relating to involuntary assessment and
88 stabilization procedures; repealing s. 397.6818, F.S.,
89 relating to court determinations for petitions for
90 involuntary assessment and stabilization; repealing s.
91 397.6819, F.S., relating to the responsibilities of
92 licensed service providers with regard to involuntary
93 assessment and stabilization; repealing s. 397.6821,
94 F.S., relating to extensions of time for completion of
95 involuntary assessment and stabilization; repealing s.
96 397.6822, F.S., relating to the disposition of
97 individuals after involuntary assessment; amending s.
98 397.693, F.S.; revising the circumstances under which
99 a person is eligible for court-ordered involuntary
100 treatment; amending s. 397.695, F.S.; authorizing the

101 court or clerk of the court to waive or prohibit any
102 service of process fees for an indigent petitioner;
103 amending s. 397.6951, F.S.; revising the requirements
104 for the contents of a petition for involuntary
105 treatment services; authorizing a petitioner to
106 include with the petition a certificate or report of a
107 qualified professional; requiring the certificate or
108 report to contain certain information; requiring that
109 certain additional information be included if an
110 emergency exists; amending s. 397.6955, F.S.; revising
111 when a hearing must be held on the petition; requiring
112 law enforcement agencies to effect service for initial
113 treatment hearings unless certain requirements are
114 met; providing requirements for when a petitioner
115 asserts that emergency circumstances exist or the
116 court determines that an emergency exists; conforming
117 provisions to changes made by the act; amending s.
118 397.6957, F.S.; expanding the exemption from the
119 requirement that a respondent be present at a hearing
120 on a petition for involuntary treatment services;
121 authorizing the court to order drug tests and permit
122 all witnesses to remotely attend and testify at the
123 hearing through certain means; deleting a provision
124 requiring the court to appoint a guardian advocate
125 under certain circumstances; prohibiting a respondent

126 from being involuntarily ordered into treatment unless
127 certain requirements are met; providing requirements
128 relating to involuntary assessment and stabilization
129 orders; providing requirements relating to involuntary
130 treatment hearings; requiring that the assessment of a
131 respondent occur before a specified time unless
132 certain requirements are met; requiring the service
133 provider to discharge the respondent after a specified
134 time unless certain requirements are met; requiring a
135 qualified professional to provide copies of his or her
136 report to the court and all relevant parties and
137 counsel; providing requirements for the report;
138 authorizing a court to order certain persons to take a
139 respondent into custody and transport him or her to or
140 from certain service providers and the court;
141 authorizing the court to initiate involuntary
142 proceedings under certain circumstances; requiring
143 that, if a treatment order is issued, it must include
144 certain findings; amending s. 397.697, F.S.; requiring
145 that an individual meet certain requirements to
146 qualify for involuntary outpatient treatment;
147 specifying that a service provider's authority is
148 separate and distinct from the court's jurisdiction;
149 requiring the department to receive and maintain
150 copies of certain documents and prepare annual reports

151 obtained from the documents; requiring the department
 152 to post copies of the reports on its website beginning
 153 on a specified date; amending s. 397.6971, F.S.;
 154 revising when an individual receiving involuntary
 155 treatment services may be determined eligible for
 156 discharge; conforming provisions to changes made by
 157 the act; amending s. 397.6975, F.S.; authorizing
 158 certain entities to file a petition for renewal of
 159 involuntary treatment services; revising the timeframe
 160 during which the court is required to schedule a
 161 hearing; conforming provisions to changes made by the
 162 act; amending s. 397.6977, F.S.; conforming provisions
 163 to changes made by the act; repealing s. 397.6978,
 164 F.S., relating to the appointment of guardian
 165 advocates; amending s. 394.4655, F.S.; conforming a
 166 cross-reference; providing an effective date.

167
 168 Be It Enacted by the Legislature of the State of Florida:
 169

170 Section 1. Subsection (23) of section 394.455, Florida
 171 Statutes, is amended to read:

172 394.455 Definitions.—As used in this part, the term:
 173 (23) "Involuntary examination" means an examination
 174 performed under s. 394.463, s. 397.6772, s. 397.679, s.
 175 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a

176 | person qualifies for involuntary services.

177 | Section 2. Paragraph (c) of subsection (5) and subsection
178 | (11) of section 394.459, Florida Statutes, are amended to read:
179 | 394.459 Rights of patients.—

180 | (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

181 | (c) Each facility must permit immediate access to any
182 | patient, subject to the patient's right to deny or withdraw
183 | consent at any time, by the patient's family members, guardian,
184 | guardian advocate, representative, Florida statewide or local
185 | advocacy council, or attorney, unless such access would be
186 | detrimental to the patient. If a patient's right to communicate
187 | or to receive visitors is restricted by the facility, written
188 | notice of such restriction and the reasons for the restriction
189 | shall be served on the patient, the patient's attorney, and the
190 | patient's guardian, guardian advocate, or representative; and
191 | such restriction shall be recorded on the patient's clinical
192 | record with the reasons therefor. The restriction of a patient's
193 | right to communicate or to receive visitors shall be reviewed at
194 | least every 72 hours, or no later than the next working day if
195 | such period ends on a weekend or holiday ~~7 days~~. The right to
196 | communicate or receive visitors shall not be restricted as a
197 | means of punishment. Nothing in this paragraph shall be
198 | construed to limit the provisions of paragraph (d).

199 | (11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE
200 | PLANNING.—

201 (a) The patient shall have the opportunity to participate
 202 in treatment and discharge planning and shall be notified in
 203 writing of his or her right, upon discharge from the facility,
 204 to seek treatment from the professional or agency of the
 205 patient's choice.

206 (b) Upon discharge, the facility must provide, in writing,
 207 information to a patient with a serious mental illness, at a
 208 minimum, regarding services available in the patient's
 209 geographic area which would assist in the patient's recovery.

210 Section 3. Paragraphs (c) and (d) of subsection (4) of
 211 section 394.461, Florida Statutes, are redesignated as
 212 paragraphs (d) and (e), respectively, subsection (2) is amended,
 213 and a new paragraph (c) is added to subsection (4) of that
 214 section, to read:

215 394.461 Designation of receiving and treatment facilities
 216 and receiving systems.—The department is authorized to designate
 217 and monitor receiving facilities, treatment facilities, and
 218 receiving systems and may suspend or withdraw such designation
 219 for failure to comply with this part and rules adopted under
 220 this part. Unless designated by the department, facilities are
 221 not permitted to hold or treat involuntary patients under this
 222 part.

223 (2) TREATMENT FACILITY.—The department may designate any
 224 state-owned, state-operated, or state-supported facility as a
 225 state treatment facility. A civil patient may ~~shall~~ not be

226 admitted to a state treatment facility without previously
227 undergoing a transfer evaluation. Before the close of the
228 state's case in chief in a court hearing for involuntary
229 placement ~~in a state treatment facility~~, the state may establish
230 that the transfer evaluation was performed and the document
231 properly executed by providing the court with a copy of the
232 transfer evaluation. The court may not ~~court shall receive and~~
233 consider the substantive information ~~documented~~ in the transfer
234 evaluation unless the evaluator or current treating provider
235 testifies at the hearing. Any other facility, including a
236 private facility or a federal facility, may be designated as a
237 treatment facility by the department, provided that such
238 designation is agreed to by the appropriate governing body or
239 authority of the facility.

240 (4) REPORTING REQUIREMENTS.—

241 (c) The facility must inform the department of any person
242 who has been examined or committed three or more times at the
243 facility pursuant to this chapter within a 12-month period.

244 Section 4. Section 394.462, Florida Statutes, is amended
245 to read:

246 394.462 Transportation.—A transportation plan shall be
247 developed and implemented by each county in collaboration with
248 the managing entity in accordance with this section. A county
249 may enter into a memorandum of understanding with the governing
250 boards of nearby counties to establish a shared transportation

251 plan. When multiple counties enter into a memorandum of
252 understanding for this purpose, the counties shall notify the
253 managing entity and provide it with a copy of the agreement. The
254 transportation plan shall describe methods of transport to a
255 facility within the designated receiving system for individuals
256 subject to involuntary examination under s. 394.463 or
257 involuntary admission under s. 397.6772, s. 397.679, s.
258 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify
259 responsibility for other transportation to a participating
260 facility when necessary and agreed to by the facility. The plan
261 may rely on emergency medical transport services or private
262 transport companies, as appropriate. The plan shall comply with
263 the transportation provisions of this section and ss. 397.6772,
264 397.6795, ~~397.6822~~, and 397.697.

265 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

266 (a) Each county shall designate a single law enforcement
267 agency within the county, or portions thereof, to take a person
268 into custody upon the entry of an ex parte order or the
269 execution of a certificate for involuntary examination by an
270 authorized professional and to transport that person to the
271 appropriate facility within the designated receiving system
272 pursuant to a transportation plan.

273 (b)1. The designated law enforcement agency may decline to
274 transport the person to a receiving facility only if:

275 a. The jurisdiction designated by the county has

276 | contracted on an annual basis with an emergency medical
277 | transport service or private transport company for
278 | transportation of persons to receiving facilities pursuant to
279 | this section at the sole cost of the county; and

280 | b. The law enforcement agency and the emergency medical
281 | transport service or private transport company agree that the
282 | continued presence of law enforcement personnel is not necessary
283 | for the safety of the person or others.

284 | 2. The entity providing transportation may seek
285 | reimbursement for transportation expenses. The party responsible
286 | for payment for such transportation is the person receiving the
287 | transportation. The county shall seek reimbursement from the
288 | following sources in the following order:

289 | a. From a private or public third-party payor, if the
290 | person receiving the transportation has applicable coverage.

291 | b. From the person receiving the transportation.

292 | c. From a financial settlement for medical care,
293 | treatment, hospitalization, or transportation payable or
294 | accruing to the injured party.

295 | (c) A company that transports a patient pursuant to this
296 | subsection is considered an independent contractor and is solely
297 | liable for the safe and dignified transport of the patient. Such
298 | company must be insured and provide no less than \$100,000 in
299 | liability insurance with respect to the transport of patients.

300 | (d) Any company that contracts with a governing board of a

301 county to transport patients shall comply with the applicable
302 rules of the department to ensure the safety and dignity of
303 patients.

304 (e) When a law enforcement officer takes custody of a
305 person pursuant to this part, the officer may request assistance
306 from emergency medical personnel if such assistance is needed
307 for the safety of the officer or the person in custody.

308 (f) When a member of a mental health overlay program or a
309 mobile crisis response service is a professional authorized to
310 initiate an involuntary examination pursuant to s. 394.463 or s.
311 397.675 and that professional evaluates a person and determines
312 that transportation to a receiving facility is needed, the
313 service, at its discretion, may transport the person to the
314 facility or may call on the law enforcement agency or other
315 transportation arrangement best suited to the needs of the
316 patient.

317 (g) When any law enforcement officer has custody of a
318 person based on either noncriminal or minor criminal behavior
319 that meets the statutory guidelines for involuntary examination
320 pursuant to s. 394.463, the law enforcement officer shall
321 transport the person to the appropriate facility within the
322 designated receiving system pursuant to a transportation plan.
323 Persons who meet the statutory guidelines for involuntary
324 admission pursuant to s. 397.675 may also be transported by law
325 enforcement officers to the extent resources are available and

326 as otherwise provided by law. Such persons shall be transported
327 to an appropriate facility within the designated receiving
328 system pursuant to a transportation plan.

329 (h) When any law enforcement officer has arrested a person
330 for a felony and it appears that the person meets the statutory
331 guidelines for involuntary examination or placement under this
332 part, such person must first be processed in the same manner as
333 any other criminal suspect. The law enforcement agency shall
334 thereafter immediately notify the appropriate facility within
335 the designated receiving system pursuant to a transportation
336 plan. The receiving facility shall be responsible for promptly
337 arranging for the examination and treatment of the person. A
338 receiving facility is not required to admit a person charged
339 with a crime for whom the facility determines and documents that
340 it is unable to provide adequate security, but shall provide
341 examination and treatment to the person where he or she is held.

342 (i) If the appropriate law enforcement officer believes
343 that a person has an emergency medical condition as defined in
344 s. 395.002, the person may be first transported to a hospital
345 for emergency medical treatment, regardless of whether the
346 hospital is a designated receiving facility.

347 (j) The costs of transportation, evaluation,
348 hospitalization, and treatment incurred under this subsection by
349 persons who have been arrested for violations of any state law
350 or county or municipal ordinance may be recovered as provided in

351 s. 901.35.

352 (k) The appropriate facility within the designated
353 receiving system pursuant to a transportation plan must accept
354 persons brought by law enforcement officers, or an emergency
355 medical transport service or a private transport company
356 authorized by the county, for involuntary examination pursuant
357 to s. 394.463.

358 (l) The appropriate facility within the designated
359 receiving system pursuant to a transportation plan must provide
360 persons brought by law enforcement officers, or an emergency
361 medical transport service or a private transport company
362 authorized by the county, pursuant to s. 397.675, a basic
363 screening or triage sufficient to refer the person to the
364 appropriate services.

365 (m) Each law enforcement agency designated pursuant to
366 paragraph (a) shall establish a policy that reflects a single
367 set of protocols for the safe and secure transportation and
368 transfer of custody of the person. Each law enforcement agency
369 shall provide a copy of the protocols to the managing entity.

370 (n) When a jurisdiction has entered into a contract with
371 an emergency medical transport service or a private transport
372 company for transportation of persons to facilities within the
373 designated receiving system, such service or company shall be
374 given preference for transportation of persons from nursing
375 homes, assisted living facilities, adult day care centers, or

376 adult family-care homes, unless the behavior of the person being
377 transported is such that transportation by a law enforcement
378 officer is necessary.

379 (o) This section may not be construed to limit emergency
380 examination and treatment of incapacitated persons provided in
381 accordance with s. 401.445.

382 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

383 (a) If neither the patient nor any person legally
384 obligated or responsible for the patient is able to pay for the
385 expense of transporting a voluntary or involuntary patient to a
386 treatment facility, the transportation plan established by the
387 governing board of the county or counties must specify how the
388 hospitalized patient will be transported to, from, and between
389 facilities in a safe and dignified manner.

390 (b) A company that transports a patient pursuant to this
391 subsection is considered an independent contractor and is solely
392 liable for the safe and dignified transportation of the patient.
393 Such company must be insured and provide no less than \$100,000
394 in liability insurance with respect to the transport of
395 patients.

396 (c) A company that contracts with one or more counties to
397 transport patients in accordance with this section shall comply
398 with the applicable rules of the department to ensure the safety
399 and dignity of patients.

400 (d) County or municipal law enforcement and correctional

401 personnel and equipment may not be used to transport patients
 402 adjudicated incapacitated or found by the court to meet the
 403 criteria for involuntary placement pursuant to s. 394.467,
 404 except in small rural counties where there are no cost-efficient
 405 alternatives.

406 (3) TRANSFER OF CUSTODY.—Custody of a person who is
 407 transported pursuant to this part, along with related
 408 documentation, shall be relinquished to a responsible individual
 409 at the appropriate receiving or treatment facility.

410 Section 5. Paragraph (a) of subsection (1) and subsection
 411 (4) of section 394.4625, Florida Statutes, are amended to read:

412 394.4625 Voluntary admissions.—

413 (1) AUTHORITY TO RECEIVE PATIENTS.—

414 (a) A facility may receive for observation, diagnosis, or
 415 treatment any person 18 years of age or older who applies ~~making~~
 416 ~~application~~ by express and informed consent for admission or any
 417 person age 17 or under whose parent or legal guardian applies
 418 for admission ~~whom such application is made by his or her~~
 419 ~~guardian~~. If found to show evidence of mental illness, to be
 420 competent to provide express and informed consent, and to be
 421 suitable for treatment, such person 18 years of age or older may
 422 be admitted to the facility. A person age 17 or under may be
 423 admitted only after a clinical review ~~hearing~~ to verify the
 424 voluntariness of the minor's assent ~~consent~~.

425 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient

426 | who applies to be transferred to voluntary status shall be
427 | transferred to voluntary status immediately, unless the patient
428 | has been charged with a crime, or has been involuntarily placed
429 | for treatment by a court pursuant to s. 394.467 and continues to
430 | meet the criteria for involuntary placement. When transfer to
431 | voluntary status occurs, notice shall be given as provided in s.
432 | 394.4599, and if the patient is a minor, the minor's assent to
433 | voluntary care must be verified as provided in paragraph (1)(a).

434 | Section 6. Paragraphs (a), (e), (f), and (g) of subsection
435 | (2) of section 394.463, Florida Statutes, are amended to read:

436 | 394.463 Involuntary examination.—

437 | (2) INVOLUNTARY EXAMINATION.—

438 | (a) An involuntary examination may be initiated by any one
439 | of the following means:

440 | 1. A circuit or county court may enter an ex parte order
441 | stating that a person appears to meet the criteria for
442 | involuntary examination and specifying the findings on which
443 | that conclusion is based. The ex parte order for involuntary
444 | examination must be based on written or oral sworn testimony
445 | that includes specific facts that support the findings. If other
446 | less restrictive means are not available, such as voluntary
447 | appearance for outpatient evaluation, a law enforcement officer,
448 | or other designated agent of the court, shall take the person
449 | into custody and deliver him or her to an appropriate, or the
450 | nearest, facility within the designated receiving system

451 pursuant to s. 394.462 for involuntary examination. The order of
452 the court shall be made a part of the patient's clinical record.
453 A fee may not be charged for the filing of an order under this
454 subsection. A facility accepting the patient based on this order
455 must send a copy of the order to the department within 5 working
456 days. The order may be submitted electronically through existing
457 data systems, if available. The order shall be valid only until
458 the person is delivered to the facility or for the period
459 specified in the order itself, whichever comes first. If a time
460 limit is not specified in the order, the order is valid for 7
461 days after the date that the order was signed.

462 2. A law enforcement officer may ~~shall~~ take a person who
463 appears to meet the criteria for involuntary examination into
464 custody and deliver the person or have him or her delivered to
465 an appropriate, or the nearest, facility within the designated
466 receiving system pursuant to s. 394.462 for examination. A law
467 enforcement officer transporting a person pursuant to this
468 subparagraph shall restrain the person in the least restrictive
469 manner available and appropriate under the circumstances. The
470 officer shall execute a written report detailing the
471 circumstances under which the person was taken into custody,
472 which must be made a part of the patient's clinical record. Any
473 facility accepting the patient based on this report must send a
474 copy of the report to the department within 5 working days.

475 3. A physician, a physician assistant, a clinical

476 | psychologist, a psychiatric nurse, an advanced practice
477 | registered nurse registered under s. 464.0123, a mental health
478 | counselor, a marriage and family therapist, or a clinical social
479 | worker may execute a certificate stating that he or she has
480 | examined a person within the preceding 48 hours and finds that
481 | the person appears to meet the criteria for involuntary
482 | examination and stating the observations upon which that
483 | conclusion is based. If other less restrictive means, such as
484 | voluntary appearance for outpatient evaluation, are not
485 | available, a law enforcement officer shall take into custody the
486 | person named in the certificate and deliver him or her to the
487 | appropriate, or nearest, facility within the designated
488 | receiving system pursuant to s. 394.462 for involuntary
489 | examination. The law enforcement officer shall execute a written
490 | report detailing the circumstances under which the person was
491 | taken into custody. The report and certificate shall be made a
492 | part of the patient's clinical record. Any facility accepting
493 | the patient based on this certificate must send a copy of the
494 | certificate to the department within 5 working days. The
495 | document may be submitted electronically through existing data
496 | systems, if applicable.

497 |
498 | When sending the order, report, or certificate to the
499 | department, a facility shall, at a minimum, provide information
500 | about which action was taken regarding the patient under

501 paragraph (g), which information shall also be made a part of
502 the patient's clinical record.

503 (e) The department shall receive and maintain ~~the~~ copies
504 of ex parte orders, involuntary outpatient services orders
505 issued pursuant to s. 394.4655, involuntary inpatient placement
506 orders issued pursuant to s. 394.467, professional certificates,
507 and law enforcement officers' reports. These documents shall be
508 considered part of the clinical record, governed by the
509 provisions of s. 394.4615. These documents shall be used to
510 prepare, at least annually, ~~annual~~ reports analyzing the data
511 obtained from these documents, without information identifying
512 patients, and the department shall post ~~provide copies of the~~
513 reports on its website ~~to the department, the President of the~~
514 ~~Senate, the Speaker of the House of Representatives, and the~~
515 ~~minority leaders of the Senate and the House of Representatives.~~

516 (f) A patient shall be examined by a physician or a
517 clinical psychologist, or by a psychiatric nurse performing
518 within the framework of an established protocol with a
519 psychiatrist at a facility without unnecessary delay to
520 determine if the criteria for involuntary services are met.
521 Emergency treatment may be provided upon the order of a
522 physician if the physician determines that such treatment is
523 necessary for the safety of the patient or others. The patient
524 may not be released by the receiving facility or its contractor
525 without the documented approval of a psychiatrist or a clinical

526 | psychologist or, if the receiving facility is owned or operated
527 | by a hospital, ~~or~~ health system, or a nationally accredited
528 | community mental health center, the release may also be approved
529 | by a psychiatric nurse performing within the framework of an
530 | established protocol with a psychiatrist, or an attending
531 | emergency department physician with experience in the diagnosis
532 | and treatment of mental illness after completion of an
533 | involuntary examination pursuant to this subsection. A
534 | psychiatric nurse may not approve the release of a patient if
535 | the involuntary examination was initiated by a psychiatrist
536 | unless the release is approved by the initiating psychiatrist.

537 | (g) The examination period must be for up to 72 hours and
538 | begins when a patient arrives at the receiving facility. For a
539 | minor, the examination shall be initiated within 12 hours after
540 | the patient's arrival at the facility. Within the examination
541 | period or, if the examination period ends on a weekend or
542 | holiday, no later than the next working day thereafter, one of
543 | the following actions must be taken, based on the individual
544 | needs of the patient:

545 | 1. The patient shall be released, unless he or she is
546 | charged with a crime, in which case the patient shall be
547 | returned to the custody of a law enforcement officer;

548 | 2. The patient shall be released, subject to subparagraph
549 | 1., for voluntary outpatient treatment;

550 | 3. The patient, unless he or she is charged with a crime,

551 shall be asked to give express and informed consent to placement
 552 as a voluntary patient and, if such consent is given, the
 553 patient shall be admitted as a voluntary patient; or

554 4. A petition for involuntary services shall be filed in
 555 the circuit court ~~if inpatient treatment is deemed necessary~~ or
 556 with the criminal county court, as defined in s. 394.4655(1), as
 557 applicable. When inpatient treatment is deemed necessary, the
 558 least restrictive treatment consistent with the optimum
 559 improvement of the patient's condition shall be made available.
 560 When a petition is to be filed for involuntary outpatient
 561 placement, it shall be filed by one of the petitioners specified
 562 in s. 394.4655(4) (a). A petition for involuntary inpatient
 563 placement shall be filed by the facility administrator.

564 Section 7. Subsection (5), paragraphs (a), (b), and (c) of
 565 subsection (6), and paragraph (d) of subsection (7) of section
 566 394.467, Florida Statutes, are amended to read:

567 394.467 Involuntary inpatient placement.—

568 (5) CONTINUANCE OF HEARING.—The patient and the state are
 569 independently entitled ~~is entitled, with the concurrence of the~~
 570 ~~patient's counsel,~~ to at least one continuance of the hearing.
 571 The patient's continuance may be for a period of ~~for~~ up to 4
 572 weeks and requires the concurrence of his or her counsel. The
 573 state's continuance may be for a period of up to 5 court working
 574 days and requires a showing of good cause and due diligence by
 575 the state before requesting the continuance. The state's failure

576 to timely review any readily available document or failure to
577 attempt to contact a known witness does not warrant a
578 continuance.

579 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

580 (a)1. The court shall hold the hearing on involuntary
581 inpatient placement within 5 court working days, unless a
582 continuance is granted.

583 2. Except for good cause documented in the court file, the
584 hearing must be held in the county or the facility, as
585 appropriate, where the patient is located, must be as convenient
586 to the patient as is consistent with orderly procedure, and
587 shall be conducted in physical settings not likely to be
588 injurious to the patient's condition. If the court finds that
589 the patient's attendance at the hearing is not consistent with
590 the best interests of, or is likely to be injurious to, the
591 patient, or the patient knowingly, intelligently, and
592 voluntarily waives his or her right to be present, and the
593 patient's counsel does not object, the court may waive the
594 presence of the patient from all or any portion of the hearing.
595 Upon a showing of good cause, including, but not limited to,
596 specific symptoms of the respondent's condition, and if all
597 parties consent, the court may permit all witnesses, including,
598 but not limited to, any medical professionals or personnel who
599 are or have been involved with the patient's treatment, to
600 remotely attend and testify at the hearing under oath by audio-

601 video teleconference. Any witness intending to remotely attend
602 and testify at the hearing must provide the parties with all
603 relevant documents by the close of business on the day before
604 the hearing. The state attorney for the circuit in which the
605 patient is located shall represent the state, rather than the
606 petitioning facility administrator, as the real party in
607 interest in the proceeding. The facility shall make the
608 respondent's clinical records available to the state attorney
609 and the respondent's attorney within 24 hours of the involuntary
610 placement petition's filing so that the state can evaluate and
611 prepare its case before the hearing. However, such records shall
612 remain confidential, and the state attorney may not use any
613 record obtained under this part for criminal investigation or
614 prosecution purposes, or for any purpose other than the
615 patient's civil commitment under this chapter.

616 3. The court may appoint a magistrate to preside at the
617 hearing on the petition and any ancillary proceedings thereto.
618 One of the professionals who executed the petition for
619 involuntary inpatient placement certificate shall be a witness.
620 The court shall allow testimony deemed relevant and admissible
621 pursuant to the Florida Rules of Evidence from listed
622 individuals regarding the person's prior history and how that
623 history relates to the person's current condition. The patient
624 and the patient's guardian or representative shall be informed
625 by the court of the right to an independent expert examination.

626 If the patient cannot afford such an examination, the court
627 shall ensure that one is provided, as otherwise provided for by
628 law. The independent expert's report is confidential and not
629 discoverable, unless the expert is to be called as a witness for
630 the patient at the hearing. The testimony in the hearing must be
631 given under oath, and the proceedings must be recorded. The
632 patient may refuse to testify at the hearing.

633 (b) If the court concludes that the patient meets the
634 criteria for involuntary inpatient placement, it may order that
635 the patient be transferred to a treatment facility or, if the
636 patient is at a treatment facility, that the patient be retained
637 there or be treated at any other appropriate facility, or that
638 the patient receive services, on an involuntary basis, for up to
639 ~~90 days. However, any order for involuntary mental health~~
640 ~~services in a treatment facility may be for up to 6 months.~~ The
641 order shall specify the nature and extent of the patient's
642 mental illness, and, unless the patient has transferred to a
643 voluntary status, the facility must discharge the patient at any
644 time he or she no longer meets the criteria for involuntary
645 inpatient treatment. The court may not order an individual with
646 a developmental disability as defined in s. 393.063, traumatic
647 brain injury, or dementia who lacks a co-occurring mental
648 illness to be involuntarily placed in a state treatment
649 facility. ~~The facility shall discharge a patient any time the~~
650 ~~patient no longer meets the criteria for involuntary inpatient~~

651 ~~placement, unless the patient has transferred to voluntary~~
 652 ~~status.~~

653 (c) If at any time before the conclusion of the
 654 involuntary placement hearing ~~on involuntary inpatient placement~~
 655 it appears to the court that the person does not meet the
 656 criteria of ~~for involuntary inpatient placement under~~ this
 657 section, but instead meets the criteria for involuntary
 658 outpatient services, the court may order the person evaluated
 659 for involuntary outpatient services pursuant to s. 394.4655. The
 660 petition and hearing procedures set forth in s. 394.4655 shall
 661 apply. If the person instead meets the criteria for involuntary
 662 assessment, protective custody, or involuntary admission or
 663 treatment pursuant to s. 397.675, ~~then~~ the court may order the
 664 person to be admitted for involuntary assessment ~~for a period of~~
 665 ~~5 days~~ pursuant to s. 397.6957 ~~s. 397.6811~~. Thereafter, all
 666 proceedings are governed by chapter 397.

667 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
 668 PLACEMENT.—

669 (d) If at a hearing it is shown that the patient continues
 670 to meet the criteria for involuntary inpatient placement, the
 671 administrative law judge shall sign the order for continued
 672 involuntary inpatient placement for up to ~~90 days~~. ~~However, any~~
 673 ~~order for involuntary mental health services in a treatment~~
 674 ~~facility may be for up to~~ 6 months. The same procedure shall be
 675 repeated before the expiration of each additional period the

676 patient is retained.

677

678 The procedure required in this subsection must be followed
 679 before the expiration of each additional period the patient is
 680 involuntarily receiving services.

681 Section 8. Subsection (3) of section 394.495, Florida
 682 Statutes, is amended to read:

683 394.495 Child and adolescent mental health system of care;
 684 programs and services.—

685 (3) Assessments must be performed by:

686 (a) A clinical psychologist, clinical social worker,
 687 physician, psychiatric nurse, or psychiatrist, as those terms
 688 are defined in s. 394.455 ~~professional as defined in s.~~
 689 ~~394.455(5), (7), (33), (36), or (37);~~

690 (b) A professional licensed under chapter 491; or

691 (c) A person who is under the direct supervision of a
 692 clinical psychologist, clinical social worker, physician,
 693 psychiatric nurse, or psychiatrist, as those terms are defined
 694 in s. 394.455, ~~qualified professional as defined in s.~~
 695 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
 696 under chapter 491.

697 Section 9. Subsection (5) of section 394.496, Florida
 698 Statutes, is amended to read:

699 394.496 Service planning.—

700 (5) A clinical psychologist, clinical social worker,

701 physician, psychiatric nurse, or psychiatrist, as those terms
 702 are defined in s. 394.455, professional as defined in s.
 703 394.455(5), (7), (33), (36), or (37) or a professional licensed
 704 under chapter 491 must be included among those persons
 705 developing the services plan.

706 Section 10. Paragraph (a) of subsection (2) of section
 707 394.499, Florida Statutes, is amended to read:

708 394.499 Integrated children's crisis stabilization
 709 unit/juvenile addictions receiving facility services.—

710 (2) Children eligible to receive integrated children's
 711 crisis stabilization unit/juvenile addictions receiving facility
 712 services include:

713 (a) A person under 18 years of age for whom voluntary
 714 application is made by his or her parent or legal guardian, if
 715 such person is found to show evidence of mental illness and to
 716 be suitable for treatment pursuant to s. 394.4625. A person
 717 under 18 years of age may be admitted for integrated facility
 718 services only after a hearing to verify that the assent ~~consent~~
 719 to admission is voluntary is conducted pursuant to s. 394.4625.

720 Section 11. Paragraph (c) of subsection (3) and subsection
 721 (5) of section 394.9086, Florida Statutes, are amended, and
 722 paragraphs (d) and (e) are added to subsection (3) of that
 723 section, to read:

724 394.9086 Commission on Mental Health and Substance Abuse.—

725 (3) MEMBERSHIP; TERM LIMITS; MEETINGS.—

726 (c) The commission shall convene no later than September
 727 1, 2021. The commission shall meet quarterly or upon the call of
 728 the chair. The commission may ~~shall~~ hold its meetings in person
 729 or via teleconference or other electronic means.

730 (d) Members of the commission are entitled to receive
 731 reimbursement for per diem and travel expenses pursuant to s.
 732 112.061.

733 (e) Notwithstanding any other law, the commission may
 734 request and shall be provided with access to any information or
 735 records, including exempt or confidential and exempt information
 736 or records, which are necessary for the commission to carry out
 737 its duties. Information or records obtained by the commission
 738 which are otherwise exempt or confidential and exempt shall
 739 retain such exempt or confidential and exempt status, and the
 740 commission may not disclose any such information or records.

741 (5) REPORTS.—By January 1, 2023 ~~September 1, 2022~~, the
 742 commission shall submit an interim report to the President of
 743 the Senate, the Speaker of the House of Representatives, and the
 744 Governor containing its findings and recommendations on how to
 745 best provide and facilitate mental health and substance abuse
 746 services in the state. The commission shall submit its final
 747 report to the President of the Senate, the Speaker of the House
 748 of Representatives, and the Governor by September 1, 2023.

749 Section 12. Subsection (3) of section 397.305, Florida
 750 Statutes, is amended to read:

751 397.305 Legislative findings, intent, and purpose.—
 752 (3) It is the purpose of this chapter to provide for a
 753 comprehensive continuum of accessible and quality substance
 754 abuse prevention, intervention, clinical treatment, and recovery
 755 support services in the most appropriate and least restrictive
 756 environment which promotes long-term recovery while protecting
 757 and respecting the rights of individuals, primarily through
 758 community-based private not-for-profit providers working with
 759 local governmental programs involving a wide range of agencies
 760 from both the public and private sectors.

761 Section 13. Subsections (19) and (23) of section 397.311,
 762 Florida Statutes, are amended to read:

763 397.311 Definitions.—As used in this chapter, except part
 764 VIII, the term:

765 (19) "Impaired" or "substance abuse impaired" means having
 766 a substance use disorder or a condition involving the use of
 767 alcoholic beverages, illicit or prescription drugs, or any
 768 psychoactive or mood-altering substance in such a manner as to
 769 induce mental, emotional, or physical problems or ~~and~~ cause
 770 socially dysfunctional behavior.

771 (23) "Involuntary treatment services" means an array of
 772 behavioral health services that may be ordered by the court for
 773 persons with substance abuse impairment or co-occurring
 774 substance abuse impairment and mental health disorders.

775 Section 14. Section 397.341, Florida Statutes, is created

776 to read:

777 397.341 Transportation of individuals by law enforcement
 778 officers.—A law enforcement officer transporting an individual
 779 pursuant to this chapter shall restrain that individual in the
 780 least restrictive manner available and appropriate under the
 781 circumstances.

782 Section 15. Subsection (11) is added to section 397.501,
 783 Florida Statutes, to read:

784 397.501 Rights of individuals.—Individuals receiving
 785 substance abuse services from any service provider are
 786 guaranteed protection of the rights specified in this section,
 787 unless otherwise expressly provided, and service providers must
 788 ensure the protection of such rights.

789 (11) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, a
 790 facility must provide, in writing, information to an individual
 791 with a substance use disorder, at a minimum, regarding services
 792 available in the individual's geographic area which would assist
 793 in the individual's recovery.

794 Section 16. Section 397.675, Florida Statutes, is amended
 795 to read:

796 397.675 Criteria for involuntary admissions, including
 797 protective custody, emergency admission, and other involuntary
 798 assessment, involuntary treatment, and alternative involuntary
 799 assessment for minors, for purposes of assessment and
 800 stabilization, and for involuntary treatment.—A person meets the

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801 criteria for involuntary admission if there is good faith reason
802 to believe that the person is substance abuse impaired or has a
803 substance use disorder and a co-occurring mental health disorder
804 and, because of such impairment or disorder:

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

807 (2)(a) Is in need of substance abuse services and, by
808 reason of substance abuse impairment, his or her judgment has
809 been so impaired that he or she is incapable of appreciating his
810 or her need for such services and of making a rational decision
811 in that regard, although mere refusal to receive such services
812 does not constitute evidence of lack of judgment with respect to
813 his or her need for such services; or

814 (b) Without care or treatment, is likely to suffer from
815 neglect or refuse to care for himself or herself; that such
816 neglect or refusal poses a real and present threat of
817 substantial harm to his or her well-being; and that it is not
818 apparent that such harm may be avoided through the help of
819 willing family members or friends or the provision of other
820 services, or there is substantial likelihood that the person has
821 inflicted, or threatened to or attempted to inflict, or, unless
822 admitted, is likely to inflict, physical harm on himself,
823 herself, or another.

824 Section 17. Subsection (1) of section 397.6751, Florida
825 Statutes, is amended to read:

826 397.6751 Service provider responsibilities regarding
 827 involuntary admissions.—

828 (1) It is the responsibility of the service provider to:

829 (a) Ensure that a person who is admitted to a licensed
 830 service component meets the admission criteria specified in s.
 831 397.675;

832 (b) Ascertain whether the medical and behavioral
 833 conditions of the person, as presented, are beyond the safe
 834 management capabilities of the service provider;

835 (c) Provide for the admission of the person to the service
 836 component that represents the most appropriate and least
 837 restrictive available setting that is responsive to the person's
 838 treatment needs;

839 (d) Verify that the admission of the person to the service
 840 component does not result in a census in excess of its licensed
 841 service capacity;

842 (e) Determine whether the cost of services is within the
 843 financial means of the person or those who are financially
 844 responsible for the person's care; and

845 (f) Take all necessary measures to ensure that each
 846 individual in treatment is provided with a safe environment, and
 847 to ensure that each individual whose medical condition or
 848 behavioral problem becomes such that he or she cannot be safely
 849 managed by the service component is discharged and referred to a
 850 more appropriate setting for care.

851 Section 18. Section 397.681, Florida Statutes, is amended
 852 to read:

853 397.681 Involuntary petitions; general provisions; court
 854 jurisdiction and right to counsel.—

855 (1) JURISDICTION.—The courts have jurisdiction of
 856 ~~involuntary assessment and stabilization petitions and~~
 857 involuntary treatment petitions for substance abuse impaired
 858 persons, and such petitions must be filed with the clerk of the
 859 court in the county where the person is located or resides. The
 860 clerk of the court may not charge a fee for the filing of a
 861 petition under this section. The chief judge may appoint a
 862 general or special magistrate to preside over all or part of the
 863 proceedings related to the petition or any ancillary matters
 864 thereto. The alleged impaired person is named as the respondent.

865 (2) RIGHT TO COUNSEL.—A respondent has the right to
 866 counsel at every stage of a proceeding relating to a petition
 867 for his or her ~~involuntary assessment and a petition for his or~~
 868 ~~her~~ involuntary treatment for substance abuse impairment. A
 869 respondent who desires counsel and is unable to afford private
 870 counsel has the right to court-appointed counsel and to the
 871 benefits of s. 57.081. If the court believes that the respondent
 872 needs the assistance of counsel, the court shall appoint such
 873 counsel for the respondent without regard to the respondent's
 874 wishes. If the respondent is a minor not otherwise represented
 875 in the proceeding, the court shall immediately appoint a

876 guardian ad litem to act on the minor's behalf.

877 Section 19. Section 397.6811, Florida Statutes, is
 878 repealed.

879 Section 20. Section 397.6814, Florida Statutes, is
 880 repealed.

881 Section 21. Section 397.6815, Florida Statutes, is
 882 repealed.

883 Section 22. Section 397.6818, Florida Statutes, is
 884 repealed.

885 Section 23. Section 397.6819, Florida Statutes, is
 886 repealed.

887 Section 24. Section 397.6821, Florida Statutes, is
 888 repealed.

889 Section 25. Section 397.6822, Florida Statutes, is
 890 repealed.

891 Section 26. Section 397.693, Florida Statutes, is amended
 892 to read:

893 397.693 Involuntary treatment.—A person may be the subject
 894 of a petition for court-ordered involuntary treatment pursuant
 895 to this part, if that person:

896 (1) Reasonably appears to meet ~~meets~~ the criteria for
 897 involuntary admission provided in s. 397.675; ~~and:~~

898 (2) ~~(1)~~ Has been placed under protective custody pursuant
 899 to s. 397.677 within the previous 10 days;

900 (3) ~~(2)~~ Has been subject to an emergency admission pursuant

901 to s. 397.679 within the previous 10 days; or
 902 ~~(4)~~~~(3)~~ Has been assessed by a qualified professional
 903 within 30 ~~5~~ days;
 904 ~~(4)~~ Has been subject to involuntary assessment and
 905 stabilization pursuant to s. ~~397.6818~~ within the previous ~~12~~
 906 days; ~~or~~
 907 ~~(5)~~ Has been subject to alternative involuntary admission
 908 pursuant to s. ~~397.6822~~ within the previous ~~12~~ days.

909 Section 27. Section 397.695, Florida Statutes, is amended
 910 to read:

911 397.695 Involuntary treatment services; persons who may
 912 petition.—

913 (1) If the respondent is an adult, a petition for
 914 involuntary treatment services may be filed by the respondent's
 915 spouse or legal guardian, any relative, a service provider, or
 916 an adult who has direct personal knowledge of the respondent's
 917 substance abuse impairment and his or her prior course of
 918 assessment and treatment.

919 (2) If the respondent is a minor, a petition for
 920 involuntary treatment may be filed by a parent, legal guardian,
 921 or service provider.

922 (3) The court or the clerk of the court may waive or
 923 prohibit any service of process fees if a petitioner is
 924 determined to be indigent under s. 57.082.

925 Section 28. Section 397.6951, Florida Statutes, is amended

926 to read:

927 397.6951 Contents of petition for involuntary treatment
 928 services.—

929 (1) A petition for involuntary treatment services must
 930 contain the name of the respondent; the name of the petitioner
 931 ~~or petitioners~~; the relationship between the respondent and the
 932 petitioner; the name of the respondent's attorney, if known; ~~the~~
 933 ~~findings and recommendations of the assessment performed by the~~
 934 ~~qualified professional~~; and the factual allegations presented by
 935 the petitioner establishing the need for involuntary ~~outpatient~~
 936 services for substance abuse impairment. The factual allegations
 937 must demonstrate:

938 (a)~~(1)~~ The reason for the petitioner's belief that the
 939 respondent is substance abuse impaired;

940 (b)~~(2)~~ The reason for the petitioner's belief that because
 941 of such impairment the respondent Has lost the power of self-
 942 control with respect to substance abuse; and

943 (c)1.~~(3)~~~~(a)~~ The reason the petitioner believes that the
 944 respondent has inflicted or is likely to inflict physical harm
 945 on himself or herself or others unless the court orders the
 946 involuntary services; or

947 2.~~(b)~~ The reason the petitioner believes that the
 948 respondent's refusal to voluntarily receive care is based on
 949 judgment so impaired by reason of substance abuse that the
 950 respondent is incapable of appreciating his or her need for care

951 and of making a rational decision regarding that need for care.

952 (2) The petition may be accompanied by a certificate or
 953 report of a qualified professional or a licensed physician who
 954 examined the respondent within 30 days before the petition was
 955 filed. This certificate or report must include the qualified
 956 professional's or physician's findings relating to his or her
 957 assessment of the patient and his or her treatment
 958 recommendations. If the respondent was not assessed before the
 959 filing of a treatment petition or refused to submit to an
 960 evaluation, the lack of assessment or refusal must be noted in
 961 the petition.

962 (3) If there is an emergency, the petition must also
 963 describe the respondent's exigent circumstances and include a
 964 request for an ex parte assessment and stabilization order that
 965 must be executed pursuant to s. 397.6955(4).

966 Section 29. Section 397.6955, Florida Statutes, is amended
 967 to read:

968 397.6955 Duties of court upon filing of petition for
 969 involuntary treatment services.—

970 (1) Upon the filing of a petition for involuntary
 971 treatment services for a substance abuse impaired person with
 972 the clerk of the court, the court shall immediately determine
 973 whether the respondent is represented by an attorney or whether
 974 the appointment of counsel for the respondent is appropriate.
 975 If, based on the contents of the petition, the court appoints

976 counsel for the person, the clerk of the court shall immediately
 977 notify the office of criminal conflict and civil regional
 978 counsel, created pursuant to s. 27.511, of the appointment. The
 979 office of criminal conflict and civil regional counsel shall
 980 represent the person until the petition is dismissed, the court
 981 order expires, ~~or~~ the person is discharged from involuntary
 982 treatment services, or the office is otherwise discharged by the
 983 court. An attorney that represents the person named in the
 984 petition shall have access to the person, witnesses, and records
 985 relevant to the presentation of the person's case and shall
 986 represent the interests of the person, regardless of the source
 987 of payment to the attorney.

988 (2) The court shall schedule a hearing to be held on the
 989 petition within 10 court working ~~5~~ days unless a continuance is
 990 granted. ~~The court may appoint a magistrate to preside at the~~
 991 ~~hearing.~~

992 (3) A copy of the petition and notice of the hearing must
 993 be provided to the respondent; the respondent's parent,
 994 guardian, or legal custodian, in the case of a minor; the
 995 respondent's attorney, if known; the petitioner; the
 996 respondent's spouse or guardian, if applicable; and such other
 997 persons as the court may direct. If the respondent is a minor, a
 998 copy of the petition and notice of the hearing must be
 999 personally delivered to the respondent. The clerk ~~court~~ shall
 1000 also issue a summons to the person whose admission is sought,

1001 and unless a circuit court's chief judge authorizes
1002 disinterested private process servers to serve parties under
1003 this chapter, a law enforcement agency must effect service for
1004 the initial treatment hearing.

1005 (4) (a) When the petitioner asserts that emergency
1006 circumstances exist, or when upon review of the petition the
1007 court determines that an emergency exists, the court may rely
1008 solely on the contents of the petition and, without the
1009 appointment of an attorney, enter an ex parte order for the
1010 respondent's involuntary assessment and stabilization which must
1011 be executed during the period when the hearing on the petition
1012 for treatment is pending. The court may further order a law
1013 enforcement officer or other designated agent of the court to:

1014 1. Take the respondent into custody and deliver him or her
1015 to either the nearest appropriate licensed service provider or a
1016 licensed service provider designated by the court to be
1017 evaluated; and

1018 2. Serve the respondent with the notice of hearing and a
1019 copy of the petition.

1020 (b) The service provider must promptly inform the court
1021 and parties of the respondent's arrival and may not hold the
1022 respondent for longer than 72 hours of observation thereafter,
1023 unless:

1024 1. The service provider seeks additional time under s.
1025 397.6957(1)(c) and the court, after a hearing, grants that

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1026 motion;

1027 2. The respondent shows signs of withdrawal, or a need to
1028 be either detoxified or treated for a medical condition, which
1029 shall extend the amount of time the respondent may be held for
1030 observation until the issue is resolved; or

1031 3. The original or extended observation period ends on a
1032 weekend or holiday, in which case the provider may hold the
1033 respondent until the next court working day.

1034 (c) If the ex parte order was not executed by the initial
1035 hearing date, it shall be deemed void. However, should the
1036 respondent not appear at the hearing for any reason, including
1037 lack of service, and upon reviewing the petition, testimony, and
1038 evidence presented, the court reasonably believes the respondent
1039 meets this chapter's commitment criteria and that a substance
1040 abuse emergency exists, the court may issue or reissue an ex
1041 parte assessment and stabilization order that is valid for 90
1042 days. If the respondent's location is known at the time of the
1043 hearing, the court:

1044 1. Shall continue the case for no more than 10 court
1045 working days; and

1046 2. May order a law enforcement officer or other designated
1047 agent of the court to:

1048 a. Take the respondent into custody and deliver him or her
1049 to be evaluated either by the nearest appropriate licensed
1050 service provider or by a licensed service provider designated by

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1051 the court; and

1052 b. If a hearing date is set, serve the respondent with

1053 notice of the rescheduled hearing and a copy of the involuntary

1054 treatment petition if the respondent has not already been

1055 served.

1056

1057 Otherwise, the petitioner and the service provider must promptly

1058 inform the court that the respondent has been assessed so that

1059 the court may schedule a hearing as soon as practicable. The

1060 service provider must serve the respondent, before his or her

1061 discharge, with the notice of hearing and a copy of the

1062 petition. However, if the respondent has not been assessed

1063 within 90 days, the court must dismiss the case.

1064 Section 30. Section 397.6957, Florida Statutes, is amended

1065 to read:

1066 397.6957 Hearing on petition for involuntary treatment

1067 services.—

1068 (1)(a) The respondent must be present at a hearing on a

1069 petition for involuntary treatment services unless he or she

1070 knowingly, intelligently, and voluntarily waives his or her

1071 right to be present or, upon receiving proof of service and

1072 evaluating the circumstances of the case, the court finds that

1073 his or her presence is inconsistent with his or her best

1074 interests or is likely to be injurious to himself or herself or

1075 others. The court shall hear and review all relevant evidence,

1076 including testimony from individuals such as family members
1077 familiar with the respondent's prior history and how it relates
1078 to his or her current condition, and ~~the review of~~ results of
1079 the assessment completed by the qualified professional in
1080 connection with this chapter. The court may also order drug
1081 tests. Upon a showing of good cause, including, but not limited
1082 to, such as specific symptoms of the respondent's condition, and
1083 if all parties consent, the court may permit all witnesses, such
1084 as any medical professionals or personnel who are or have been
1085 involved with the respondent's treatment, to remotely attend and
1086 testify at the hearing under oath via audio-video
1087 teleconference. Any witness intending to remotely attend and
1088 testify at the hearing must provide the parties with all
1089 relevant documents by the close of business on the day before
1090 the hearing ~~the respondent's protective custody, emergency~~
1091 ~~admission, involuntary assessment, or alternative involuntary~~
1092 ~~admission. The respondent must be present unless the court finds~~
1093 ~~that his or her presence is likely to be injurious to himself or~~
1094 ~~herself or others, in which event the court must appoint a~~
1095 ~~guardian advocate to act in behalf of the respondent throughout~~
1096 ~~the proceedings.~~
1097 (b) A respondent cannot be involuntarily ordered into
1098 treatment under this chapter without a clinical assessment being
1099 performed, unless he or she is present in court and expressly
1100 waives the assessment. In nonemergency situations, if the

1101 respondent was not, or had previously refused to be, assessed by
1102 a qualified professional and, based on the petition, testimony,
1103 and evidence presented, it reasonably appears that the
1104 respondent qualifies for involuntary treatment services, the
1105 court shall issue an involuntary assessment and stabilization
1106 order to determine the appropriate level of treatment the
1107 respondent requires. Additionally, in cases where an assessment
1108 was attached to the petition, the respondent may request, or the
1109 court on its own motion may order, an independent assessment by
1110 a court-appointed physician or an otherwise agreed-upon
1111 physician. If an assessment order is issued, it is valid for 90
1112 days, and if the respondent is present or there is either proof
1113 of service or his or her location is known, the involuntary
1114 treatment hearing shall be continued for no more than 10 court
1115 working days. Otherwise, the petitioner and the service provider
1116 must promptly inform the court that the respondent has been
1117 assessed so that the court may schedule a hearing as soon as
1118 practicable. The service provider shall then serve the
1119 respondent, before his or her discharge, with the notice of
1120 hearing and a copy of the petition. The assessment must occur
1121 before the new hearing date, and if there is evidence indicating
1122 that the respondent will not voluntarily appear at the
1123 forthcoming hearing, or is a danger to self or others, the court
1124 may enter a preliminary order committing the respondent to an
1125 appropriate treatment facility for further evaluation until the

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1126 date of the rescheduled hearing. However, if after 90 days the
1127 respondent remains unassessed, the court shall dismiss the case.
1128 (c)1. The respondent's assessment by a qualified
1129 professional must occur within 72 hours after his or her arrival
1130 at a licensed service provider unless he or she shows signs of
1131 withdrawal or a need to be either detoxified or treated for a
1132 medical condition, which shall extend the amount of time the
1133 respondent may be held for observation until that issue is
1134 resolved. If the person conducting the assessment is not a
1135 licensed physician, the assessment must be reviewed by a
1136 licensed physician within the 72-hour period. If the respondent
1137 is a minor, such assessment must be initiated within the first
1138 12 hours after the minor's admission to the facility. The
1139 service provider may also move to extend the 72 hours of
1140 observation by petitioning the court in writing for additional
1141 time. The service provider must furnish copies of such motion to
1142 all parties in accordance with applicable confidentiality
1143 requirements, and, after a hearing, the court may grant
1144 additional time or expedite the respondent's involuntary
1145 treatment hearing. The involuntary treatment hearing, however,
1146 may be expedited only by agreement of the parties on the hearing
1147 date or if there is notice and proof of service as provided in
1148 s. 397.6955(1) and (3). If the court grants the service
1149 provider's petition, the service provider may hold the
1150 respondent until its extended assessment period expires or until

1151 the expedited hearing date. However, if the original or extended
1152 observation period ends on a weekend or holiday, the provider
1153 may hold the respondent until the next court working day.

1154 2. Upon the completion of his or her report, the qualified
1155 professional, in accordance with applicable confidentiality
1156 requirements, shall provide copies to the court and all relevant
1157 parties and counsel. This report must contain a recommendation
1158 on the level, if any, of substance abuse and, if applicable, co-
1159 occurring mental health treatment the respondent requires. The
1160 qualified professional's failure to include a treatment
1161 recommendation, much like a recommendation of no treatment,
1162 shall result in the petition's dismissal.

1163 (d) The court may order a law enforcement officer or other
1164 designated agent of the court to take the respondent into
1165 custody and transport him or her to or from the treating or
1166 assessing service provider and the court for his or her hearing.

1167 (2) The petitioner has the burden of proving by clear and
1168 convincing evidence that:

1169 (a) The respondent is substance abuse impaired ~~and~~ has a
1170 history of lack of compliance with treatment for substance
1171 abuse; and

1172 (b) Because of such impairment the respondent is unlikely
1173 to voluntarily participate in the recommended services or is
1174 unable to determine for himself or herself whether services are
1175 necessary and:

1176 1. Without services, the respondent is likely to suffer
1177 from neglect or refuse to care for himself or herself; that such
1178 neglect or refusal poses a real and present threat of
1179 substantial harm to his or her well-being; and that there is a
1180 substantial likelihood that without services the respondent will
1181 cause serious bodily harm to himself, herself, or another in the
1182 near future, as evidenced by recent behavior; or

1183 2. The respondent's refusal to voluntarily receive care is
1184 based on judgment so impaired by reason of substance abuse that
1185 the respondent is incapable of appreciating his or her need for
1186 care and of making a rational decision regarding that need for
1187 care.

1188 ~~(3) One of the qualified professionals who executed the~~
1189 ~~involuntary services certificate must be a witness. The court~~
1190 ~~shall allow testimony from individuals, including family~~
1191 ~~members, deemed by the court to be relevant under state law,~~
1192 ~~regarding the respondent's prior history and how that prior~~
1193 ~~history relates to the person's current condition. The Testimony~~
1194 in the hearing must be taken under oath, and the proceedings
1195 must be recorded. The respondent ~~patient~~ may refuse to testify
1196 at the hearing.

1197 (4) If at any point during the hearing the court has
1198 reason to believe that the respondent, due to mental illness
1199 other than or in addition to substance abuse impairment, is
1200 likely to neglect or injure himself, herself, or another if

1201 allowed to remain at liberty, or otherwise meets the involuntary
 1202 commitment provisions of part I of chapter 394, the court may
 1203 initiate involuntary examination proceedings under such
 1204 provisions.

1205 (5)(4) At the conclusion of the hearing, the court shall
 1206 either dismiss the petition or order the respondent to receive
 1207 involuntary treatment services from his or her chosen licensed
 1208 service provider if possible and appropriate. Any treatment
 1209 order must include findings regarding the respondent's need for
 1210 treatment and the appropriateness of other less restrictive
 1211 alternatives.

1212 Section 31. Section 397.697, Florida Statutes, is amended
 1213 to read:

1214 397.697 Court determination; effect of court order for
 1215 involuntary treatment services.-

1216 (1) (a) When the court finds that the conditions for
 1217 involuntary treatment services have been proved by clear and
 1218 convincing evidence, it may order the respondent to receive
 1219 involuntary treatment services from a publicly funded licensed
 1220 service provider for a period not to exceed 90 days. The court
 1221 may also order a respondent to undergo treatment through a
 1222 privately funded licensed service provider if the respondent has
 1223 the ability to pay for the treatment, or if any person on the
 1224 respondent's behalf voluntarily demonstrates a willingness and
 1225 an ability to pay for the treatment. If the court finds it

1226 necessary, it may direct the sheriff to take the respondent into
1227 custody and deliver him or her to the licensed service provider
1228 specified in the court order, or to the nearest appropriate
1229 licensed service provider, for involuntary treatment services.
1230 When the conditions justifying involuntary treatment services no
1231 longer exist, the individual must be released as provided in s.
1232 397.6971. When the conditions justifying involuntary treatment
1233 services are expected to exist after 90 days of treatment
1234 services, a renewal of the involuntary treatment services order
1235 may be requested pursuant to s. 397.6975 before the end of the
1236 90-day period.

1237 (b) To qualify for involuntary outpatient treatment, an
1238 individual must be supported by a social worker or case manager
1239 of a licensed service provider or a willing, able, and
1240 responsible individual appointed by the court who shall inform
1241 the court and parties if the respondent fails to comply with his
1242 or her outpatient program. In addition, unless the respondent
1243 has been involuntarily ordered into inpatient treatment under
1244 this chapter at least twice during the last 36 months, or
1245 demonstrates the ability to substantially comply with the
1246 outpatient treatment while waiting for residential placement to
1247 become available, he or she must receive an assessment from a
1248 qualified professional or licensed physician expressly
1249 recommending outpatient services, such services must be
1250 available in the county in which the respondent is located, and

1251 it must appear likely that the respondent will follow a
1252 prescribed outpatient care plan.

1253 (2) In all cases resulting in an order for involuntary
1254 treatment services, the court shall retain jurisdiction over the
1255 case and the parties for the entry of such further orders as the
1256 circumstances may require. The court's requirements for
1257 notification of proposed release must be included in the
1258 original order.

1259 (3) An involuntary treatment services order also
1260 authorizes the licensed service provider to require the
1261 individual to receive treatment services that will benefit him
1262 or her, including treatment services at any licensable service
1263 component of a licensed service provider. While subject to the
1264 court's oversight, the service provider's authority under this
1265 section is separate and distinct from the court's broad
1266 continuing jurisdiction under subsection (2). Such oversight
1267 includes, but is not limited to, submitting reports regarding
1268 the respondent's progress or compliance with treatment as
1269 required by the court.

1270 (4) If the court orders involuntary treatment services, a
1271 copy of the order must be sent to the managing entity within 1
1272 working day after it is received from the court. Documents may
1273 be submitted electronically through ~~through~~ existing data
1274 systems, if applicable. The department shall also receive and
1275 maintain copies of involuntary assessment and treatment orders

1276 issued pursuant to ss. 397.6955 and 397.6957, professional
 1277 certificates, and law enforcement officers' protective custody
 1278 reports. These documents shall be used to prepare annual reports
 1279 analyzing the data obtained from these documents, without
 1280 information identifying patients, and the department shall
 1281 provide copies of these reports on its website, beginning July
 1282 1, 2023.

1283 Section 32. Section 397.6971, Florida Statutes, is amended
 1284 to read:

1285 397.6971 Early release from involuntary treatment
 1286 services.—

1287 (1) At any time before the end of the 90-day involuntary
 1288 treatment services period, or before the end of any extension
 1289 granted pursuant to s. 397.6975, an individual receiving
 1290 involuntary treatment services may be determined eligible for
 1291 discharge to the most appropriate referral or disposition for
 1292 the individual when any of the following apply:

1293 (a) The individual no longer meets the criteria for
 1294 involuntary admission and has given his or her informed consent
 1295 to be transferred to voluntary treatment status.

1296 (b) If the individual was admitted on the grounds of
 1297 likelihood of self-neglect or the infliction of physical harm
 1298 upon himself or herself or others, such likelihood no longer
 1299 exists.

1300 (c) If the individual was admitted on the grounds of need

1301 for assessment and stabilization or treatment, accompanied by
 1302 inability to make a determination respecting such need:

- 1303 1. Such inability no longer exists; or
- 1304 2. It is evident that further treatment will not bring
- 1305 about further significant improvements in the individual's
- 1306 condition.

1307 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~
 1308 services.

1309 (e) The director of the service provider determines that
 1310 the individual is beyond the safe management capabilities of the
 1311 provider.

1312 (2) Whenever a qualified professional determines that an
 1313 individual admitted for involuntary treatment services qualifies
 1314 for early release under subsection (1), the service provider
 1315 shall immediately discharge the individual and must notify all
 1316 persons specified by the court in the original treatment order.

1317 Section 33. Section 397.6975, Florida Statutes, is amended
 1318 to read:

1319 397.6975 Extension of involuntary treatment services
 1320 period.—

1321 (1) Whenever a service provider believes that an
 1322 individual who is nearing the scheduled date of his or her
 1323 release from involuntary treatment services continues to meet
 1324 the criteria for involuntary treatment services in s. 397.693 or
 1325 s. 397.6957, a petition for renewal of the involuntary treatment

1326 services order must ~~may~~ be filed with the court ~~at least 10 days~~
1327 before the expiration of the court-ordered services period. The
1328 petition may be filed by the service provider or by the person
1329 who filed the petition for the initial treatment order if the
1330 petition is accompanied by supporting documentation from the
1331 service provider. The court shall ~~immediately~~ schedule a hearing
1332 within 10 court working ~~to be held not more than 15~~ days after
1333 filing of the petition and. ~~The court shall~~ provide the copy of
1334 the petition for renewal and the notice of the hearing to all
1335 parties and counsel to the proceeding. The hearing is conducted
1336 pursuant to ss. 397.6957 and 397.697 and must be before the
1337 circuit court unless referred to a magistrate ~~s. 397.6957~~.

1338 (2) If the court finds that the petition for renewal of
1339 ~~the~~ involuntary treatment services ~~order~~ should be granted, it
1340 may order the respondent to receive involuntary treatment
1341 services for a period not to exceed an additional 90 days. When
1342 the conditions justifying involuntary treatment services no
1343 longer exist, the individual must be released as provided in s.
1344 397.6971. When the conditions justifying involuntary treatment
1345 services continue to exist after an additional 90 days of
1346 treatment service, a new petition requesting renewal of the
1347 involuntary treatment services order may be filed pursuant to
1348 this section.

1349 ~~(3) Within 1 court working day after the filing of a~~
1350 ~~petition for continued involuntary services, the court shall~~

1351 ~~appoint the office of criminal conflict and civil regional~~
1352 ~~counsel to represent the respondent, unless the respondent is~~
1353 ~~otherwise represented by counsel. The clerk of the court shall~~
1354 ~~immediately notify the office of criminal conflict and civil~~
1355 ~~regional counsel of such appointment. The office of criminal~~
1356 ~~conflict and civil regional counsel shall represent the~~
1357 ~~respondent until the petition is dismissed or the court order~~
1358 ~~expires or the respondent is discharged from involuntary~~
1359 ~~services. Any attorney representing the respondent shall have~~
1360 ~~access to the respondent, witnesses, and records relevant to the~~
1361 ~~presentation of the respondent's case and shall represent the~~
1362 ~~interests of the respondent, regardless of the source of payment~~
1363 ~~to the attorney.~~

1364 ~~(4) Hearings on petitions for continued involuntary~~
1365 ~~services shall be before the circuit court. The court may~~
1366 ~~appoint a magistrate to preside at the hearing. The procedures~~
1367 ~~for obtaining an order pursuant to this section shall be in~~
1368 ~~accordance with s. 397.697.~~

1369 ~~(5) Notice of hearing shall be provided to the respondent~~
1370 ~~or his or her counsel. The respondent and the respondent's~~
1371 ~~counsel may agree to a period of continued involuntary services~~
1372 ~~without a court hearing.~~

1373 ~~(6) The same procedure shall be repeated before the~~
1374 ~~expiration of each additional period of involuntary services.~~

1375 ~~(7) If the respondent has previously been found~~

1376 ~~incompetent to consent to treatment, the court shall consider~~
 1377 ~~testimony and evidence regarding the respondent's competence.~~

1378 Section 34. Section 397.6977, Florida Statutes, is amended
 1379 to read:

1380 397.6977 Disposition of individual upon completion of
 1381 involuntary treatment services.—At the conclusion of the 90-day
 1382 period of court-ordered involuntary treatment services, the
 1383 respondent is automatically discharged unless a motion for
 1384 renewal of the involuntary treatment services order has been
 1385 filed with the court pursuant to s. 397.6975.

1386 Section 35. Section 397.6978, Florida Statutes, is
 1387 repealed.

1388 Section 36. Paragraph (c) of subsection (7) of section
 1389 394.4655, Florida Statutes, is amended to read:

1390 394.4655 Involuntary outpatient services.—

1391 (7) HEARING ON INVOLUNTARY OUTPATIENT SERVICES.—

1392 (c) If, at any time before the conclusion of the initial
 1393 hearing on involuntary outpatient services, it appears to the
 1394 court that the person does not meet the criteria for involuntary
 1395 outpatient services under this section but, instead, meets the
 1396 criteria for involuntary inpatient placement, the court may
 1397 order the person admitted for involuntary inpatient examination
 1398 under s. 394.463. If the person instead meets the criteria for
 1399 involuntary assessment, protective custody, or involuntary
 1400 admission pursuant to s. 397.675, the court may order the person

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1401 to be admitted for involuntary assessment ~~for a period of 5 days~~
1402 pursuant to s. 397.6957 ~~s. 397.6811~~. Thereafter, all proceedings
1403 are governed by chapter 397.

1404 Section 37. This act shall take effect July 1, 2022.