

## Senate Bill No. 1850

An act relating to programs of the Department of Children and Family Services; amending s. 394.455, F.S.; providing and revising definitions; amending s. 394.463, F.S.; providing that a marriage and family therapist may execute a certificate for involuntary examination; amending s. 394.4655, F.S.; providing that a marriage and family therapist or mental health counselor may deem a services treatment plan clinically appropriate for an involuntary outpatient placement; amending s. 394.467, F.S.; requiring that documentation of any evaluation performed by a marriage and family therapist or mental health counselor be provided when a patient is ordered for involuntary inpatient placement; amending s. 383.0115, F.S.; deleting a provision that repeals the Commission on Marriage and Family Support Initiatives; directing the Department of Children and Family Services to advise the Legislature when the commission ceases to be essential; amending s. 397.451, F.S.; requiring service provider personnel who request an exemption from disqualification to submit the request within a certain time after notification of the disqualification; deleting a provision specifying that service provider personnel shall not be adversely affected pending disposition of an exemption from disqualification; deleting a provision requiring immediate dismissal of service provider personnel upon disapproval of a request for an exemption; prohibiting the department from issuing a regular license to a service provider that fails to provide proof that background screening information has been submitted providing that upon notification of the disqualification, the service provider shall comply with requirements regarding exclusions from employment in s. 435.06, F.S.; repealing s. 3, ch. 2003-279, Laws of Florida; requiring the Department of Children and Family Services, the Agency for Persons with Disabilities, the Department of Health, the Agency for Health Care Administration, and the Department of Elderly Affairs to convene a workgroup for the purpose of implementing a statewide system for ensuring the provision of services for adults with disabilities; requiring that the Department of Children and Family Services coordinate the workgroup; requiring the workgroup to report to the Governor and the Legislature by a specified date; requiring the participating agencies to support the expenses of workgroup members; requiring that the recommendations of the workgroup be incorporated into certain interagency agreements; abrogating the repeal of s. 20.19(2)(c) and (4)(b)6. and 8., F.S., relating to the appointment of certain mental health and substance abuse positions and the establishment of program offices for mental health and substance abuse; providing an effective date.

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

Section 1. Subsection (31) of section 394.455, Florida Statutes, is amended, and subsections (34) and (35) are added to that section, to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(31) “Service provider” means any public or private receiving facility, an entity under contract with the Department of Children and Family Services to provide mental health services, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician, psychiatric nurse as defined in subsection (23), or a community mental health center or clinic as defined in this part.

(34) “Marriage and family therapist” means a person licensed as a marriage and family therapist under chapter 491.

(35) “Mental health counselor” means a person licensed as a mental health counselor under chapter 491.

Section 2. Paragraph (a) of subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

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

1. A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination, giving the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on sworn testimony, written or oral. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to the nearest receiving facility for involuntary examination. The order of the court shall be made a part of the patient’s clinical record. No fee shall be charged for the filing of an order under this subsection. Any receiving facility accepting the patient based on this order must send a copy of the order to the Agency for Health Care Administration on the next working day. The order shall be valid only until executed or, if not executed, for the period specified in the order itself. If no time limit is specified in the order, the order shall be valid for 7 days after the date that the order was signed.

2. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to the nearest receiving facility for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, and the report shall be made a part of the patient’s clinical record. Any receiving facility accepting the patient based on this report must send a copy of the report to the Agency for Health Care Administration on the next working day.

3. A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she has examined a person within the

preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer shall take the person named in the certificate into custody and deliver him or her to the nearest receiving facility for involuntary examination. The law enforcement officer shall execute a written report detailing the circumstances under which the person was taken into custody. The report and certificate shall be made a part of the patient's clinical record. Any receiving facility accepting the patient based on this certificate must send a copy of the certificate to the Agency for Health Care Administration on the next working day.

Section 3. Paragraphs (a) and (c) of subsection (2) of section 394.4655, Florida Statutes, are amended to read:

394.4655 Involuntary outpatient placement.—

(2) INVOLUNTARY OUTPATIENT PLACEMENT.—

(a)1. A patient may be retained by a receiving facility upon the recommendation of the administrator of a receiving facility where the patient has been examined and after adherence to the notice of hearing procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient placement are met. However, in a county having a population of fewer than 50,000, if the administrator certifies that no psychiatrist or clinical psychologist is available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental and nervous disorders or by a psychiatric nurse as defined in this chapter. Such a recommendation must be entered on an involuntary outpatient placement certificate, which certificate must authorize the receiving facility to retain the patient pending completion of a hearing. The certificate shall be made a part of the patient's clinical record.

2. If the patient has been stabilized and no longer meets the criteria for involuntary examination pursuant to s. 394.463(1), the patient must be released from the receiving facility while awaiting the hearing for involuntary outpatient placement. Prior to filing a petition for involuntary outpatient treatment, the administrator of a receiving facility or a designated department representative shall identify the service provider that will have primary responsibility for service provision under an order for involuntary outpatient placement, unless the person is otherwise participating in outpatient psychiatric treatment and is not in need of public financing for that treatment, in which case the individual, if eligible, may be ordered to involuntary treatment pursuant to the existing psychiatric treatment relationship.

3. The service provider shall prepare a written proposed treatment plan in consultation with the patient or the patient's guardian advocate, if ap-

pointed, for the court's consideration for inclusion in the involuntary outpatient placement order. The service provider shall also provide a copy of the proposed treatment plan to the patient and the administrator of the receiving facility. The treatment plan must specify the nature and extent of the patient's mental illness. The treatment plan must address the reduction of symptoms that necessitate involuntary outpatient placement and include measurable goals and objectives for the services and treatment that are provided to treat the person's mental illness and to assist the person in living and functioning in the community or to attempt to prevent a relapse or deterioration. Service providers may select and provide supervision to other individuals to implement specific aspects of the treatment plan. The services in the treatment plan must be deemed to be clinically appropriate by a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker, as defined in this chapter, who consults with, or is employed or contracted by, the service provider. The service provider must certify to the court in the proposed treatment plan whether sufficient services for improvement and stabilization are currently available and whether the service provider agrees to provide those services. If the service provider certifies that the services in the proposed treatment plan are not available, the petitioner may not file the petition.

(c)1. The administrator of the treatment facility shall provide a copy of the involuntary outpatient placement certificate and a copy of the state mental health discharge form to a department representative in the county where the patient will be residing. For persons who are leaving a state mental health treatment facility, the petition for involuntary outpatient placement must be filed in the county where the patient will be residing.

2. The service provider that will have primary responsibility for service provision shall be identified by the designated department representative prior to the order for involuntary outpatient placement and must, prior to filing a petition for involuntary outpatient placement, certify to the court whether the services recommended in the patient's discharge plan are available in the local community and whether the service provider agrees to provide those services. The service provider must develop with the patient, or the patient's guardian advocate, if appointed, a treatment or service plan that addresses the needs identified in the discharge plan. The plan must be deemed to be clinically appropriate by a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker, as defined in this chapter, who consults with, or is employed or contracted by, the service provider.

3. If the service provider certifies that the services in the proposed treatment or service plan are not available, the petitioner may not file the petition.

Section 4. Paragraph (e) of subsection (6) of section 394.467, Florida Statutes, is amended to read:

394.467 Involuntary inpatient placement.—

## (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

(e) The administrator of the receiving facility shall provide a copy of the court order and adequate documentation of a patient's mental illness to the administrator of a treatment facility whenever a patient is ordered for involuntary inpatient placement, whether by civil or criminal court. The Such documentation shall include any advance directives made by the patient, a psychiatric evaluation of the patient, and any evaluations of the patient performed by a clinical psychologist, a marriage and family therapist, a mental health counselor, or a clinical social worker. The administrator of a treatment facility may refuse admission to any patient directed to its facilities on an involuntary basis, whether by civil or criminal court order, who is not accompanied at the same time by adequate orders and documentation.

Section 5. Subsection (6) of section 383.0115, Florida Statutes, is amended to read:

383.0115 The Commission on Marriage and Family Support Initiatives.—

~~(6) Pursuant to the requirements in s. 20.052(2), the department shall advise the Legislature when the commission ceases to be essential to the furtherance of a public purpose. This section is repealed on June 30, 2008, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 6. Paragraph (f) of subsection (1) of section 397.451, Florida Statutes, is amended, and paragraph (g) is added to that subsection, to read:

397.451 Background checks of service provider personnel.—

(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND EXCEPTIONS.—

(f) Service provider personnel who request an exemption from disqualification must submit the request within 30 days after being notified of the a pending disqualification. Upon notification of the disqualification, the service provider shall comply with requirements regarding exclusion from employment in s. 435.06. ~~The employment of service provider personnel shall not be adversely affected pending disposition of the request for an exemption. Disapproval of a request for an exemption shall result in the immediate dismissal of the service provider personnel from employment with the provider.~~

(g) The department may not issue a regular license to any service provider that fails to provide proof that background screening information has been submitted in accordance with chapter 435.

Section 7. (1) The Department of Children and Family Services, the Agency for Persons with Disabilities, the Department of Health, the Agency for Health Care Administration, and the Department of Elderly Affairs shall convene a workgroup for the purpose of developing and implementing a workable statewide system of ensuring that adults with disabilities are

provided ready access to the programs most likely to meet their needs. The system shall avoid duplication of services and unnecessary delay in providing needed services. The participating agencies shall implement improvements that maximize access to the services provided under applicable state and federal laws, with an emphasis on developing strategies for overcoming barriers to the timely access to services.

(2) The Department of Children and Family Services shall coordinate the activities of the interagency workgroup, which shall include representatives from the state agencies specified in subsection (1) and may include other representatives whom the workgroup identifies as necessary to complete its tasks.

(3) The interagency workgroup shall, at a minimum, address:

(a) Existing barriers to providing timely access to services for disabled individuals, including the requirements of any targeted service delivery;

(b) Existing resources for overcoming identified barriers;

(c) Additional resources that are needed in order to overcome identified barriers, including recommendations for any needed legislative action or additional funding for programs; and

(d) The need for cooperative agreements among the agencies.

(3) The workgroup shall report to the Governor and the Legislature its findings and recommendations relating to each responsibility, including recommendations for legislation if necessary, by January 31, 2007, and shall submit a final report by January 31, 2008. The workgroup is dissolved upon submission of its final report.

(4) Members of the interagency workgroup shall serve without compensation and each participating agency shall support the travel, per diem, and other expenses of its representatives.

(5) The recommendations of the workgroup shall be incorporated into the interagency agreements described in s. 408.302, Florida Statutes.

Section 8. Section 3 of chapter 2003-279, Laws of Florida, is repealed.

Section 9. This act shall take effect upon becoming a law.

Approved by the Governor June 12, 2006.

Filed in Office Secretary of State June 12, 2006.