

1                                   A bill to be entitled  
 2           An act relating to involuntary examinations under the  
 3           Baker Act; amending s. 394.463, F.S.; authorizing  
 4           physician assistants and advanced registered nurse  
 5           practitioners to initiate involuntary examinations  
 6           under the Baker Act of persons believed to have mental  
 7           illness; amending s. 394.455, F.S.; providing  
 8           definitions; amending ss. 39.407, 394.495, 394.496,  
 9           394.9085, 409.972, and 744.704, F.S.; conforming  
 10          cross-references; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

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 14           Section 1. Paragraph (a) of subsection (2) of section  
 15   394.463, Florida Statutes, is amended to read:

16           394.463 Involuntary examination.—

17           (2) INVOLUNTARY EXAMINATION.—

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

20           1. A court may enter an ex parte order stating that a  
 21   person appears to meet the criteria for involuntary examination,  
 22   giving the findings on which that conclusion is based. The ex  
 23   parte order for involuntary examination must be based on sworn  
 24   testimony, written or oral. If other less restrictive means are  
 25   not available, such as voluntary appearance for outpatient  
 26   evaluation, a law enforcement officer, or other designated agent

27 of the court, shall take the person into custody and deliver him  
28 or her to the nearest receiving facility for involuntary  
29 examination. The order of the court shall be made a part of the  
30 patient's clinical record. No fee shall be charged for the  
31 filing of an order under this subsection. Any receiving facility  
32 accepting the patient based on this order must send a copy of  
33 the order to the Agency for Health Care Administration on the  
34 next working day. The order shall be valid only until executed  
35 or, if not executed, for the period specified in the order  
36 itself. If no time limit is specified in the order, the order  
37 shall be valid for 7 days after the date that the order was  
38 signed.

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

49 3. A physician, physician assistant, clinical  
50 psychologist, psychiatric nurse, mental health counselor,  
51 marriage and family therapist, ~~or~~ clinical social worker, or  
52 advanced registered nurse practitioner may execute a certificate

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

68 | Section 2. Subsections (2) through (21) of section  
69 | 394.455, Florida Statutes, are renumbered as subsections (3)  
70 | through (22), respectively, present subsections (22) through  
71 | (38) are renumbered as subsections (24) through (40),  
72 | respectively, and new subsections (2) and (23) are added to that  
73 | section, to read:

74 | 394.455 Definitions.—As used in this part, unless the  
75 | context clearly requires otherwise, the term:

76 | (2) "Physician assistant" has the same meaning as provided  
77 | in s. 458.347(2) (e) or s. 459.022(2) (e).

78 | (23) "Advanced registered nurse practitioner" means a

79 person licensed in this state to practice professional nursing  
80 and certified in advanced or specialized nursing practice, as  
81 defined in s. 464.003.

82 Section 3. Paragraph (a) of subsection (3) of section  
83 39.407, Florida Statutes, is amended to read:

84 39.407 Medical, psychiatric, and psychological examination  
85 and treatment of child; physical, mental, or substance abuse  
86 examination of person with or requesting child custody.—

87 (3)(a)1. Except as otherwise provided in subparagraph  
88 (b)1. or paragraph (e), before the department provides  
89 psychotropic medications to a child in its custody, the  
90 prescribing physician shall attempt to obtain express and  
91 informed consent, as defined in s. 394.455(10) ~~394.455(9)~~ and as  
92 described in s. 394.459(3)(a), from the child's parent or legal  
93 guardian. The department must take steps necessary to facilitate  
94 the inclusion of the parent in the child's consultation with the  
95 physician. However, if the parental rights of the parent have  
96 been terminated, the parent's location or identity is unknown or  
97 cannot reasonably be ascertained, or the parent declines to give  
98 express and informed consent, the department may, after  
99 consultation with the prescribing physician, seek court  
100 authorization to provide the psychotropic medications to the  
101 child. Unless parental rights have been terminated and if it is  
102 possible to do so, the department shall continue to involve the  
103 parent in the decisionmaking process regarding the provision of  
104 psychotropic medications. If, at any time, a parent whose

105 parental rights have not been terminated provides express and  
 106 informed consent to the provision of a psychotropic medication,  
 107 the requirements of this section that the department seek court  
 108 authorization do not apply to that medication until such time as  
 109 the parent no longer consents.

110 2. Any time the department seeks a medical evaluation to  
 111 determine the need to initiate or continue a psychotropic  
 112 medication for a child, the department must provide to the  
 113 evaluating physician all pertinent medical information known to  
 114 the department concerning that child.

115 Section 4. Paragraphs (a) and (c) of subsection (3) of  
 116 section 394.495, Florida Statutes, are amended to read:

117 394.495 Child and adolescent mental health system of care;  
 118 programs and services.—

119 (3) Assessments must be performed by:

120 (a) A professional as defined in s. 394.455(3), (5), (22),  
 121 (25), or (26) ~~394.455(2), (4), (21), (23), or (24)~~;

122 (c) A person who is under the direct supervision of a  
 123 professional as defined in s. 394.455(3), (5), (22), (25), or  
 124 (26) ~~394.455(2), (4), (21), (23), or (24)~~ or a professional  
 125 licensed under chapter 491.

126 Section 5. Subsection (5) of section 394.496, Florida  
 127 Statutes, is amended to read:

128 394.496 Service planning.—

129 (5) A professional as defined in s. 394.455(3), (5), (22),  
 130 (25), or (26) ~~394.455(2), (4), (21), (23), or (24)~~ or a

131 professional licensed under chapter 491 must be included among  
132 those persons developing the services plan.

133 Section 6. Subsection (6) of section 394.9085, Florida  
134 Statutes, is amended to read:

135 394.9085 Behavioral provider liability.—

136 (6) For purposes of this section, the terms  
137 "detoxification services," "addictions receiving facility," and  
138 "receiving facility" have the same meanings as those provided in  
139 ss. 397.311(22)(a)4., 397.311(22)(a)1., and 394.455(28)  
140 ~~394.455(26)~~, respectively.

141 Section 7. Paragraph (b) of subsection (1) of section  
142 409.972, Florida Statutes, is amended to read:

143 409.972 Mandatory and voluntary enrollment.—

144 (1) The following Medicaid-eligible persons are exempt  
145 from mandatory managed care enrollment required by s. 409.965,  
146 and may voluntarily choose to participate in the managed medical  
147 assistance program:

148 (b) Medicaid recipients residing in residential commitment  
149 facilities operated through the Department of Juvenile Justice  
150 or mental health treatment facilities as defined by s.  
151 394.455(34) ~~394.455(32)~~.

152 Section 8. Subsection (7) of section 744.704, Florida  
153 Statutes, is amended to read:

154 744.704 Powers and duties.—

155 (7) A public guardian shall not commit a ward to a mental  
156 health treatment facility, as defined in s. 394.455(34)

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157 | ~~394.455(32)~~, without an involuntary placement proceeding as  
158 | provided by law.

159 |       Section 9. This act shall take effect July 1, 2016.