

By the Committee on Children, Families, and Elder Affairs; and
Senator Steube

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1 A bill to be entitled
2 An act relating to involuntary examination and
3 involuntary admission of minors; amending s. 394.462,
4 F.S.; authorizing a designated law enforcement agency
5 to decline to transport a minor 14 years of age or
6 younger to a receiving facility for mental health or
7 substance abuse evaluation if the parent or guardian
8 of the minor agrees to transport the minor to the
9 receiving facility; amending s. 394.463, F.S.;
10 providing circumstances under which a minor 14 years
11 of age or younger may be taken to a receiving facility
12 for involuntary examination; requiring an assessment
13 by a service provider of a minor 14 years of age or
14 younger to be initiated within 8 hours after the
15 patient's arrival at the receiving facility; requiring
16 a receiving facility to release a minor 14 years of
17 age or younger to the minor's parent or guardian;
18 providing exceptions; amending ss. 394.4599 and
19 790.065, F.S.; conforming cross-references; providing
20 an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (b) of subsection (1) of section
25 394.462, Florida Statutes, is amended to read:

26 394.462 Transportation.—A transportation plan shall be
27 developed and implemented by each county by July 1, 2017, in
28 collaboration with the managing entity in accordance with this
29 section. A county may enter into a memorandum of understanding

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30 with the governing boards of nearby counties to establish a
31 shared transportation plan. When multiple counties enter into a
32 memorandum of understanding for this purpose, the counties shall
33 notify the managing entity and provide it with a copy of the
34 agreement. The transportation plan shall describe methods of
35 transport to a facility within the designated receiving system
36 for individuals subject to involuntary examination under s.
37 394.463 or involuntary admission under s. 397.6772, s. 397.679,
38 s. 397.6798, or s. 397.6811, and may identify responsibility for
39 other transportation to a participating facility when necessary
40 and agreed to by the facility. The plan may rely on emergency
41 medical transport services or private transport companies, as
42 appropriate. The plan shall comply with the transportation
43 provisions of this section and ss. 397.6772, 397.6795, 397.6822,
44 and 397.697.

45 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

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

48 a. The jurisdiction designated by the county has contracted
49 on an annual basis with an emergency medical transport service
50 or private transport company for transportation of persons to
51 receiving facilities pursuant to this section at the sole cost
52 of the county; ~~and~~

53 b. The law enforcement agency and the emergency medical
54 transport service or private transport company agree that the
55 continued presence of law enforcement personnel is not necessary
56 for the safety of the person or others; and—

57 c. With respect to a minor 14 years of age or younger, the
58 parent or guardian of the minor agrees to transport the minor to

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59 the receiving facility.

60 2. The entity providing transportation may seek
61 reimbursement for transportation expenses. The party responsible
62 for payment for such transportation is the person receiving the
63 transportation. The county shall seek reimbursement from the
64 following sources in the following order:

65 a. From a private or public third-party payor, if the
66 person receiving the transportation has applicable coverage.

67 b. From the person receiving the transportation.

68 c. From a financial settlement for medical care, treatment,
69 hospitalization, or transportation payable or accruing to the
70 injured party.

71 Section 2. Subsection (1) and paragraph (g) of subsection
72 (2) of section 394.463, Florida Statutes, are amended to read:

73 394.463 Involuntary examination.—

74 (1) CRITERIA.—

75 (a) A person older than 14 years of age may be taken to a
76 receiving facility for involuntary examination if there is
77 reason to believe that the person has a mental illness and
78 because of his or her mental illness:

79 ~~(a)~~ 1.a. The person has refused voluntary examination after
80 conscientious explanation and disclosure of the purpose of the
81 examination; or

82 ~~b.2.~~ The person is unable to determine for himself or
83 herself whether examination is necessary; and

84 2.a. ~~(b)1.~~ Without care or treatment, the person is likely
85 to suffer from neglect or refuse to care for himself or herself;
86 such neglect or refusal poses a real and present threat of
87 substantial harm to his or her well-being; and it is not

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88 apparent that such harm may be avoided through the help of
89 willing family members or friends or the provision of other
90 services; or

91 ~~b.2.~~ There is a substantial likelihood that, without care
92 or treatment, the person will cause serious bodily harm to
93 himself or herself or others in the near future, as evidenced by
94 recent behavior.

95 (b)1. A minor 14 years of age or younger may be taken to a
96 receiving facility for involuntary examination with the consent
97 of the parent or guardian of the minor if there is reason to
98 believe that the minor has a mental illness and because of his
99 or her mental illness:

100 a. Without care or treatment, the minor is likely to suffer
101 from neglect or refuse to care for himself or herself; such
102 neglect or refusal poses a real and present threat of
103 substantial harm to his or her well-being; and it is not
104 apparent that such harm may be avoided through the help of
105 willing family members or friends or the provision of other
106 services; or

107 b. There is a substantial likelihood that, without care or
108 treatment, the minor will cause serious bodily harm to himself
109 or herself or others in the near future, as evidenced by recent
110 behavior.

111 2. The consent of a parent or guardian of the minor is not
112 required if the person who initiates the examination details in
113 writing that at least one of the following events has occurred:

114 a. Reasonable attempts have been made to contact the
115 parents or guardians of the minor, and the parents or guardians
116 could not be contacted or could not take custody of the minor

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117 within a reasonable amount of time.

118 b. The minor was considered for an involuntary examination
119 because he or she caused or attempted to cause serious bodily
120 harm to himself or herself or others or possessed an item such
121 as a weapon, a knife, a razor, a pill, or poison for the purpose
122 of conducting such harm.

123 c. The minor is in the custody of the department.

124 d. The person who initiated the involuntary examination or
125 the person who reported the minor's suspected mental illness to
126 the person authorized to initiate an involuntary examination
127 made a report to the central abuse hotline, pursuant to s.
128 39.201, based upon knowledge or suspicion of abuse, abandonment,
129 or neglect.

130 (2) INVOLUNTARY EXAMINATION.—

131 (g)1. The examination period must be for up to 72 hours.
132 For a minor older than 14 years of age, the examination shall be
133 initiated within 12 hours after the patient's arrival at the
134 facility. For a minor 14 years of age or younger, an assessment
135 by a service provider shall be initiated within 8 hours after
136 the patient's arrival at the facility. Within the examination
137 period or, if the examination period ends on a weekend or
138 holiday, no later than the next working day thereafter, one of
139 the following actions must be taken, based on the individual
140 needs of the patient:

141 a.1- The patient shall be released, unless he or she is
142 charged with a crime, in which case the patient shall be
143 returned to the custody of a law enforcement officer;

144 b.2- The patient shall be released, subject to subparagraph
145 1., for voluntary outpatient treatment;

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146 ~~c.3.~~ The patient, unless he or she is charged with a crime,
147 shall be asked to give express and informed consent to placement
148 as a voluntary patient and, if such consent is given, the
149 patient shall be admitted as a voluntary patient; or

150 ~~d.4.~~ A petition for involuntary services shall be filed in
151 the circuit court if inpatient treatment is deemed necessary or
152 with the criminal county court, as defined in s. 394.4655(1), as
153 applicable. When inpatient treatment is deemed necessary, the
154 least restrictive treatment consistent with the optimum
155 improvement of the patient's condition shall be made available.
156 When a petition is to be filed for involuntary outpatient
157 placement, it shall be filed by one of the petitioners specified
158 in s. 394.4655(4) (a). A petition for involuntary inpatient
159 placement shall be filed by the facility administrator.

160 2. A receiving facility must release a minor 14 years of
161 age or younger without delay to the minor's parent or guardian
162 upon request unless consent was not necessary to conduct the
163 examination under subparagraph (1)(b)2., the facility made a
164 report with the central abuse hotline, pursuant to s. 39.201,
165 based upon knowledge or suspicion of abuse, abandonment, or
166 neglect, or the facility filed a petition for involuntary
167 services.

168 Section 3. Paragraph (c) of subsection (2) of section
169 394.4599, Florida Statutes, is amended to read:

170 394.4599 Notice.—

171 (2) INVOLUNTARY ADMISSION.—

172 (c)1. A receiving facility shall give notice of the
173 whereabouts of a minor who is being involuntarily held for
174 examination pursuant to s. 394.463 to the minor's parent,

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175 guardian, caregiver, or guardian advocate, in person or by
176 telephone or other form of electronic communication, immediately
177 after the minor's arrival at the facility. The facility may
178 delay notification for no more than 24 hours after the minor's
179 arrival if the facility has submitted a report to the central
180 abuse hotline, pursuant to s. 39.201, based upon knowledge or
181 suspicion of abuse, abandonment, or neglect and if the facility
182 deems a delay in notification to be in the minor's best
183 interest.

184 2. The receiving facility shall attempt to notify the
185 minor's parent, guardian, caregiver, or guardian advocate until
186 the receiving facility receives confirmation from the parent,
187 guardian, caregiver, or guardian advocate, verbally, by
188 telephone or other form of electronic communication, or by
189 recorded message, that notification has been received. Attempts
190 to notify the parent, guardian, caregiver, or guardian advocate
191 must be repeated at least once every hour during the first 12
192 hours after the minor's arrival and once every 24 hours
193 thereafter and must continue until such confirmation is
194 received, unless the minor is released at the end of the 72-hour
195 examination period, or until a petition for involuntary services
196 is filed with the court pursuant to s. 394.463(2)(g)1.d. ~~s.~~
197 ~~394.463(2)(g)~~. The receiving facility may seek assistance from a
198 law enforcement agency to notify the minor's parent, guardian,
199 caregiver, or guardian advocate if the facility has not received
200 within the first 24 hours after the minor's arrival a
201 confirmation by the parent, guardian, caregiver, or guardian
202 advocate that notification has been received. The receiving
203 facility must document notification attempts in the minor's

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204 clinical record.

205 Section 4. Paragraph (a) of subsection (2) of section
206 790.065, Florida Statutes, is amended to read:

207 790.065 Sale and delivery of firearms.—

208 (2) Upon receipt of a request for a criminal history record
209 check, the Department of Law Enforcement shall, during the
210 licensee's call or by return call, forthwith:

211 (a) Review any records available to determine if the
212 potential buyer or transferee:

213 1. Has been convicted of a felony and is prohibited from
214 receipt or possession of a firearm pursuant to s. 790.23;

215 2. Has been convicted of a misdemeanor crime of domestic
216 violence, and therefore is prohibited from purchasing a firearm;

217 3. Has had adjudication of guilt withheld or imposition of
218 sentence suspended on any felony or misdemeanor crime of
219 domestic violence unless 3 years have elapsed since probation or
220 any other conditions set by the court have been fulfilled or
221 expunction has occurred; or

222 4. Has been adjudicated mentally defective or has been
223 committed to a mental institution by a court or as provided in
224 sub-sub-subparagraph b.(II), and as a result is prohibited by
225 state or federal law from purchasing a firearm.

226 a. As used in this subparagraph, "adjudicated mentally
227 defective" means a determination by a court that a person, as a
228 result of marked subnormal intelligence, or mental illness,
229 incompetency, condition, or disease, is a danger to himself or
230 herself or to others or lacks the mental capacity to contract or
231 manage his or her own affairs. The phrase includes a judicial
232 finding of incapacity under s. 744.331(6)(a), an acquittal by

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233 reason of insanity of a person charged with a criminal offense,
234 and a judicial finding that a criminal defendant is not
235 competent to stand trial.

236 b. As used in this subparagraph, "committed to a mental
237 institution" means:

238 (I) Involuntary commitment, commitment for mental
239 defectiveness or mental illness, and commitment for substance
240 abuse. The phrase includes involuntary inpatient placement as
241 defined in s. 394.467, involuntary outpatient placement as
242 defined in s. 394.4655, involuntary assessment and stabilization
243 under s. 397.6818, and involuntary substance abuse treatment
244 under s. 397.6957, but does not include a person in a mental
245 institution for observation or discharged from a mental
246 institution based upon the initial review by the physician or a
247 voluntary admission to a mental institution; or

248 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
249 admission to a mental institution for outpatient or inpatient
250 treatment of a person who had an involuntary examination under
251 s. 394.463, where each of the following conditions have been
252 met:

253 (A) An examining physician found that the person is an
254 imminent danger to himself or herself or others.

255 (B) The examining physician certified that if the person
256 did not agree to voluntary treatment, a petition for involuntary
257 outpatient or inpatient treatment would have been filed under s.
258 394.463(2)(g)1.d. ~~s. 394.463(2)(g)4.~~, or the examining physician
259 certified that a petition was filed and the person subsequently
260 agreed to voluntary treatment prior to a court hearing on the
261 petition.

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262 (C) Before agreeing to voluntary treatment, the person
263 received written notice of that finding and certification, and
264 written notice that as a result of such finding, he or she may
265 be prohibited from purchasing a firearm, and may not be eligible
266 to apply for or retain a concealed weapon or firearms license
267 under s. 790.06 and the person acknowledged such notice in
268 writing, in substantially the following form:

269
270 "I understand that the doctor who examined me believes I am a
271 danger to myself or to others. I understand that if I do not
272 agree to voluntary treatment, a petition will be filed in court
273 to require me to receive involuntary treatment. I understand
274 that if that petition is filed, I have the right to contest it.
275 In the event a petition has been filed, I understand that I can
276 subsequently agree to voluntary treatment prior to a court
277 hearing. I understand that by agreeing to voluntary treatment in
278 either of these situations, I may be prohibited from buying
279 firearms and from applying for or retaining a concealed weapons
280 or firearms license until I apply for and receive relief from
281 that restriction under Florida law."

282
283 (D) A judge or a magistrate has, pursuant to sub-sub-
284 subparagraph c.(II), reviewed the record of the finding,
285 certification, notice, and written acknowledgment classifying
286 the person as an imminent danger to himself or herself or
287 others, and ordered that such record be submitted to the
288 department.

289 c. In order to check for these conditions, the department
290 shall compile and maintain an automated database of persons who

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291 are prohibited from purchasing a firearm based on court records
292 of adjudications of mental defectiveness or commitments to
293 mental institutions.

294 (I) Except as provided in sub-sub-subparagraph (II), clerks
295 of court shall submit these records to the department within 1
296 month after the rendition of the adjudication or commitment.
297 Reports shall be submitted in an automated format. The reports
298 must, at a minimum, include the name, along with any known alias
299 or former name, the sex, and the date of birth of the subject.

300 (II) For persons committed to a mental institution pursuant
301 to sub-sub-subparagraph b.(II), within 24 hours after the
302 person's agreement to voluntary admission, a record of the
303 finding, certification, notice, and written acknowledgment must
304 be filed by the administrator of the receiving or treatment
305 facility, as defined in s. 394.455, with the clerk of the court
306 for the county in which the involuntary examination under s.
307 394.463 occurred. No fee shall be charged for the filing under
308 this sub-sub-subparagraph. The clerk must present the records to
309 a judge or magistrate within 24 hours after receipt of the
310 records. A judge or magistrate is required and has the lawful
311 authority to review the records ex parte and, if the judge or
312 magistrate determines that the record supports the classifying
313 of the person as an imminent danger to himself or herself or
314 others, to order that the record be submitted to the department.
315 If a judge or magistrate orders the submittal of the record to
316 the department, the record must be submitted to the department
317 within 24 hours.

318 d. A person who has been adjudicated mentally defective or
319 committed to a mental institution, as those terms are defined in

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320 this paragraph, may petition the court that made the
321 adjudication or commitment, or the court that ordered that the
322 record be submitted to the department pursuant to sub-sub-
323 subparagraph c.(II), for relief from the firearm disabilities
324 imposed by such adjudication or commitment. A copy of the
325 petition shall be served on the state attorney for the county in
326 which the person was adjudicated or committed. The state
327 attorney may object to and present evidence relevant to the
328 relief sought by the petition. The hearing on the petition may
329 be open or closed as the petitioner may choose. The petitioner
330 may present evidence and subpoena witnesses to appear at the
331 hearing on the petition. The petitioner may confront and cross-
332 examine witnesses called by the state attorney. A record of the
333 hearing shall be made by a certified court reporter or by court-
334 approved electronic means. The court shall make written findings
335 of fact and conclusions of law on the issues before it and issue
336 a final order. The court shall grant the relief requested in the
337 petition if the court finds, based on the evidence presented
338 with respect to the petitioner's reputation, the petitioner's
339 mental health record and, if applicable, criminal history
340 record, the circumstances surrounding the firearm disability,
341 and any other evidence in the record, that the petitioner will
342 not be likely to act in a manner that is dangerous to public
343 safety and that granting the relief would not be contrary to the
344 public interest. If the final order denies relief, the
345 petitioner may not petition again for relief from firearm
346 disabilities until 1 year after the date of the final order. The
347 petitioner may seek judicial review of a final order denying
348 relief in the district court of appeal having jurisdiction over

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349 the court that issued the order. The review shall be conducted
350 de novo. Relief from a firearm disability granted under this
351 sub-subparagraph has no effect on the loss of civil rights,
352 including firearm rights, for any reason other than the
353 particular adjudication of mental defectiveness or commitment to
354 a mental institution from which relief is granted.

355 e. Upon receipt of proper notice of relief from firearm
356 disabilities granted under sub-subparagraph d., the department
357 shall delete any mental health record of the person granted
358 relief from the automated database of persons who are prohibited
359 from purchasing a firearm based on court records of
360 adjudications of mental defectiveness or commitments to mental
361 institutions.

362 f. The department is authorized to disclose data collected
363 pursuant to this subparagraph to agencies of the Federal
364 Government and other states for use exclusively in determining
365 the lawfulness of a firearm sale or transfer. The department is
366 also authorized to disclose this data to the Department of
367 Agriculture and Consumer Services for purposes of determining
368 eligibility for issuance of a concealed weapons or concealed
369 firearms license and for determining whether a basis exists for
370 revoking or suspending a previously issued license pursuant to
371 s. 790.06(10). When a potential buyer or transferee appeals a
372 nonapproval based on these records, the clerks of court and
373 mental institutions shall, upon request by the department,
374 provide information to help determine whether the potential
375 buyer or transferee is the same person as the subject of the
376 record. Photographs and any other data that could confirm or
377 negate identity must be made available to the department for

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378 such purposes, notwithstanding any other provision of state law
379 to the contrary. Any such information that is made confidential
380 or exempt from disclosure by law shall retain such confidential
381 or exempt status when transferred to the department.

382 Section 5. This act shall take effect July 1, 2018.