

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Simmons offered the following:

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3 **Amendment to Amendment (866277) (with title amendment)**

4 Remove line(s) 97-188 and insert:

5 Section 4. Effective July 1, 2005, paragraph (a) of
6 subsection (2) of section 394.463, Florida Statutes, is amended
7 to read:

8 394.463 Involuntary examination.--

9 (2) INVOLUNTARY EXAMINATION.--

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

- 12 1. A court may enter an ex parte order stating that a
13 person appears to meet the criteria for involuntary examination,
14 giving the findings on which that conclusion is based. The ex
15 parte order for involuntary examination must be based on sworn
16 testimony, written or oral. If other less restrictive means are

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17 | not available, such as voluntary appearance for outpatient
18 | evaluation, a law enforcement officer, or other designated agent
19 | of the court, shall take the person into custody and deliver him
20 | or her to the nearest receiving facility for involuntary
21 | examination. The order of the court shall be made a part of the
22 | patient's clinical record. No fee shall be charged for the
23 | filing of an order under this subsection. Any receiving
24 | facility accepting the patient based on this order must send a
25 | copy of the order to the Agency for Health Care Administration
26 | on the next working day. The order shall be valid only until
27 | executed or, if not executed, for the period specified in the
28 | order itself. If no time limit is specified in the order, the
29 | order shall be valid for 7 days after the date that the order
30 | was signed.

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

41 | 3. A physician, clinical psychologist, psychiatric nurse,
42 | mental health counselor, or clinical social worker may execute a
43 | certificate stating that he or she has examined a person within
44 | the preceding 48 hours and finds that the person appears to meet

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

58 Section 5. Effective January 1, 2005, subsection (1) and
59 paragraphs (e), (g), and (i) of subsection (2) of section
60 394.463, Florida Statutes, are amended to read:

61 394.463 Involuntary examination.--

62 (1) CRITERIA.--A person may be taken to a receiving
63 facility for involuntary examination if there is reason to
64 believe that the person has a mental illness ~~he or she is~~
65 ~~mentally ill~~ and because of his or her mental illness:

66 (a)1. The person has refused voluntary examination after
67 conscientious explanation and disclosure of the purpose of the
68 examination; or

69 2. The person is unable to determine for himself or
70 herself whether examination is necessary; and

71 (b)1. Without care or treatment, the person is likely to
72 suffer from neglect or refuse to care for himself or herself;

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73 such neglect or refusal poses a real and present threat of
74 substantial harm to his or her well-being; and it is not
75 apparent that such harm may be avoided through the help of
76 willing family members or friends or the provision of other
77 services; or

78 2. There is a substantial likelihood that without care or
79 treatment the person will cause serious bodily harm to himself
80 or herself or others in the near future, as evidenced by recent
81 behavior.

82 (2) INVOLUNTARY EXAMINATION.--

83 (e) The Agency for Health Care Administration shall
84 receive and maintain the copies of ex parte orders, involuntary
85 outpatient placement orders issued pursuant to s. 394.4655,
86 involuntary inpatient placement orders issued pursuant to s.
87 394.467, professional certificates, and law enforcement
88 officers' reports. These documents shall be considered part of
89 the clinical record, governed by the provisions of s. 394.4615.
90 The agency shall prepare annual reports analyzing the data
91 obtained from these documents, without information identifying
92 patients, and shall provide copies of reports to the department,
93 the President of the Senate, the Speaker of the House of
94 Representatives, and the minority leaders of the Senate and the
95 House of Representatives.

96 (g) A person for whom an involuntary examination has been
97 initiated who is being evaluated or treated at a hospital for an
98 emergency medical condition specified in s. 395.002 must be
99 examined by a receiving facility within 72 hours. The 72-hour
100 period begins when the patient arrives at the hospital and

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101 ceases when the attending physician documents that the patient
102 has an emergency medical condition. If the patient is examined
103 at a hospital providing emergency medical services by a
104 professional qualified to perform an involuntary examination and
105 is found as a result of that examination not to meet the
106 criteria for involuntary outpatient placement pursuant to s.
107 394.4655(1) or involuntary inpatient placement pursuant to s.
108 394.467(1), the patient may be offered voluntary placement, if
109 appropriate, or released directly from the hospital providing
110 emergency medical services. The finding by the professional
111 that the patient has been examined and does not meet the
112 criteria for involuntary inpatient placement or involuntary
113 outpatient placement must be entered into the patient's clinical
114 record. Nothing in this paragraph is intended to prevent a
115 hospital providing emergency medical services from appropriately
116 transferring a patient to another hospital prior to
117 stabilization, provided the requirements of s. 395.1041(3)(c)
118 have been met.

119 (i) Within the 72-hour examination period or, if the 72
120 hours ends on a weekend or holiday, no later than the next
121 working day thereafter, one of the following actions must be
122 taken, based on the individual needs of the patient:

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

126 2. The patient shall be released, subject to the
127 provisions of subparagraph 1., for voluntary outpatient
128 treatment;

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129 3. The patient, unless he or she is charged with a crime,
130 shall be asked to give express and informed consent to placement
131 as a voluntary patient, and, if such consent is given, the
132 patient shall be admitted as a voluntary patient; or

133 4. A petition for involuntary placement shall be filed in
134 the circuit appropriate court ~~by the facility administrator~~ when
135 outpatient or inpatient treatment is deemed necessary. ~~When~~
136 inpatient treatment is deemed necessary; ~~in which case,~~ the
137 least restrictive treatment consistent with the optimum
138 improvement of the patient's condition shall be made available.
139 When a petition is to be filed for involuntary outpatient
140 placement, it shall be filed by one of the petitioners specified
141 in s. 394.4655(3)(a). A petition for involuntary inpatient
142 placement shall be filed by the facility administrator.

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145 ===== T I T L E A M E N D M E N T =====

146 Remove lines 760-774 and insert:

147 394.463, F.S.; adding mental health counselors to the
148 persons who can initiate an involuntary examination;
149 revising criteria for an involuntary examination; revising
150 requirements for filing a petition for involuntary
151 placement; creating s. 394.4655, F.S.; providing for
152 involuntary outpatient placement; providing criteria;
153 providing procedures; providing for a voluntary
154 examination for outpatient placement; providing for a
155 petition for involuntary outpatient placement; requiring
156 the appointment of counsel; providing for a continuance of

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157 | hearing; providing procedures for the hearing on
158 | involuntary outpatient placement; providing a procedure
159 | for continued involuntary outpatient placement; amending
160 | s. 394.467, F.S., relating to involuntary placement;
161 | conforming terminology to changes made by the act;
162 | providing for rulemaking authority; providing for
163 | severability; providing effective dates.

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