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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2009	.	
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The Committee on Health Regulation (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (38) is added to section 394.455, Florida Statutes, to read:

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

(38) "Electronic means" means a form of telecommunication that requires all parties to maintain visual as well as audio communication.



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12 Section 2. Present paragraphs (k) and (l) of subsection (1)
13 of section 394.462, Florida Statutes, are redesignated as
14 paragraphs (l) and (m), respectively, a new paragraph (k) is
15 added to that subsection, present subsection (3) of that section
16 is renumbered as subsection (4), and a new subsection (3) is
17 added to that section, to read:

18 394.462 Transportation.—

19 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

20 (k) Each law enforcement agency shall develop a memorandum
21 of understanding with each receiving facility within the law
22 enforcement agency's jurisdiction which reflects a single set of
23 protocols for the safe and secure transportation of the person
24 and transfer of custody of the person. These protocols must also
25 address crisis-intervention measures.

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

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

32 394.4655 Involuntary outpatient placement.—

33 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

34 (a)1. A patient who is being recommended for involuntary
35 outpatient placement by ~~may be retained by a receiving facility~~
36 ~~upon the recommendation of the administrator of the a receiving~~
37 facility where the patient has been examined may be retained by
38 the facility ~~and~~ after adherence to the notice ~~of hearing~~
39 procedures provided in s. 394.4599. The recommendation must be
40 supported by the opinion of a psychiatrist and the second



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41 opinion of a clinical psychologist or another psychiatrist, both
42 of whom have personally examined the patient face-to-face, in
43 person or by electronic means, within the preceding 72 hours,
44 that the criteria for involuntary outpatient placement are met.
45 However, in a county having a population of fewer than 50,000,
46 if the administrator certifies that a ~~ne~~ psychiatrist or
47 clinical psychologist is not available to provide the second
48 opinion, the second opinion may be provided through a face-to-
49 face examination, in person or by electronic means, conducted by
50 a licensed physician who has postgraduate training and
51 experience in diagnosis and treatment of mental and nervous
52 disorders or by a psychiatric nurse ~~as defined in this chapter.~~
53 Such ~~a~~ recommendation must be entered on an involuntary
54 outpatient placement certificate that authorizes, ~~which~~
55 ~~certificate must authorize~~ the receiving facility to retain the
56 patient pending completion of a hearing. The certificate shall
57 be made a part of the patient's clinical record.

58 2. If the patient has been stabilized and no longer meets
59 the criteria for involuntary examination pursuant to s.
60 394.463(1), the patient must be released from the receiving
61 facility while awaiting the hearing for involuntary outpatient
62 placement. Before ~~Prior to~~ filing a petition for involuntary
63 outpatient treatment, the administrator of a receiving facility
64 or a designated department representative must ~~shall~~ identify
65 the service provider that will have primary responsibility for
66 service provision under an order for involuntary outpatient
67 placement, unless the person is otherwise participating in
68 outpatient psychiatric treatment and is not in need of public
69 financing for that treatment, in which case the individual, if



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70 eligible, may be ordered to involuntary treatment pursuant to
71 the existing psychiatric treatment relationship.

72 3. The service provider shall prepare a written proposed
73 treatment plan in consultation with the patient or the patient's
74 guardian advocate, if appointed, for the court's consideration
75 for inclusion in the involuntary outpatient placement order. The
76 service provider shall also provide a copy of the proposed
77 treatment plan to the patient and the administrator of the
78 receiving facility. The treatment plan must specify the nature
79 and extent of the patient's mental illness, ~~the treatment plan~~
80 ~~must~~ address the reduction of symptoms that necessitate
81 involuntary outpatient placement, and include measurable goals
82 and objectives for the services and treatment that are provided
83 to treat the person's mental illness and ~~to~~ assist the person in
84 living and functioning in the community or to ~~attempt to~~ prevent
85 a relapse or deterioration. Service providers may select and
86 supervise ~~provide supervision to~~ other individuals to implement
87 specific aspects of the treatment plan. The services in the
88 treatment plan must be deemed ~~to be~~ clinically appropriate by a
89 physician, clinical psychologist, psychiatric nurse, mental
90 health counselor, marriage and family therapist, or clinical
91 social worker, ~~as defined in this chapter,~~ who consults with, or
92 is employed or contracted by, the service provider. The service
93 provider must certify to the court in the proposed treatment
94 plan whether sufficient services for improvement and
95 stabilization are currently available and whether the service
96 provider agrees to provide those services. If the service
97 provider certifies that the services in the proposed treatment
98 plan are not available, the petitioner may not file the



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99 petition.

100 (b) If a patient in involuntary inpatient placement meets
101 the criteria for involuntary outpatient placement, the
102 administrator of the treatment facility may, before the
103 expiration of the period during which the treatment facility is
104 authorized to retain the patient, recommend involuntary
105 outpatient placement. The recommendation must be supported by
106 the opinion of a psychiatrist and the second opinion of a
107 clinical psychologist or another psychiatrist, both of whom have
108 personally examined the patient face-to-face, in person or by
109 electronic means, within the preceding 72 hours, that the
110 criteria for involuntary outpatient placement are met. However,
111 in a county having a population of fewer than 50,000, if the
112 administrator certifies that a ~~no~~ psychiatrist or clinical
113 psychologist is not available to provide the second opinion, the
114 second opinion may be provided through a face-to-face
115 examination, in person or by electronic means, conducted by a
116 licensed physician who has postgraduate training and experience
117 in diagnosis and treatment of mental and nervous disorders or by
118 a psychiatric nurse ~~as defined in s. 394.455(23)~~. Such a
119 recommendation must be entered on an involuntary outpatient
120 placement certificate, and the certificate must ~~shall~~ be made a
121 part of the patient's clinical record.

122 Section 4. Subsection (2) of section 394.467, Florida
123 Statutes, is amended to read:

124 394.467 Involuntary inpatient placement.—

125 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be
126 retained by a receiving facility or involuntarily placed in a
127 treatment facility upon the recommendation of the administrator



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128 of ~~the a~~ receiving facility where the patient has been examined
129 and after adherence to the notice and hearing procedures
130 provided in s. 394.4599. The recommendation must be supported by
131 the opinion of a psychiatrist and the second opinion of a
132 clinical psychologist or another psychiatrist, both of whom have
133 personally examined the patient face-to-face, in person or by
134 electronic means, within the preceding 72 hours, that the
135 criteria for involuntary inpatient placement are met. However,
136 in a county that has a population of fewer ~~counties of less~~ than
137 50,000 ~~population,~~ if the administrator certifies that a ~~no~~
138 psychiatrist or clinical psychologist is not available to
139 provide the second opinion, the ~~such~~ second opinion may be
140 provided through a face-to-face examination, in person or by
141 electronic means, conducted by a licensed physician who has ~~with~~
142 postgraduate training and experience in diagnosis and treatment
143 of mental and nervous disorders or by a psychiatric nurse ~~as~~
144 ~~defined in s. 394.455(23).~~ Such recommendation shall be entered
145 on an involuntary inpatient placement certificate that
146 authorizes, ~~which certificate shall authorize~~ the receiving
147 facility to retain the patient pending transfer to a treatment
148 facility or completion of a hearing.

149 Section 5. This act shall take effect July 1, 2009.

150
151 ===== T I T L E A M E N D M E N T =====

152 And the title is amended as follows:

153
154 Delete everything before the enacting clause
155 and insert:

156 A bill to be entitled



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157 An act relating to mental illness; amending s.
158 394.455, F.S.; defining the term "electronic means,"
159 amending s. 394.462, F.S.; requiring a law enforcement
160 agency that transports persons to a receiving facility
161 to have a memorandum of understanding with the
162 facility; requiring that custody of a person who is
163 transported to a receiving or treatment facility be
164 relinquished to a responsible person at the facility;
165 amending ss. 394.4655 and 394.467, F.S.; specifying
166 that a psychiatric examination by certain personnel be
167 conducted face-to-face, in person or by electronic
168 means; providing an effective date.