

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

586-02387-09

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1 A bill to be entitled
2 An act relating to mental illness; amending s.
3 394.462, F.S.; requiring a law enforcement agency that
4 transports persons to a receiving facility to have a
5 memorandum of understanding with the facility;
6 requiring that custody of a person who is transported
7 to a receiving or treatment facility be relinquished
8 to a responsible person at the facility; amending ss.
9 394.4655 and 394.467, F.S.; specifying that a
10 psychiatric examination by certain personnel be
11 conducted face-to-face or by electronic means;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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

22 394.462 Transportation.—

23 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

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

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

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

36 394.4655 Involuntary outpatient placement.—

37 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

38 (a)1. A patient who is being recommended for involuntary
39 outpatient placement by ~~may be retained by a receiving facility~~
40 ~~upon the recommendation of the administrator of the a receiving~~
41 ~~facility where the patient has been examined~~ may be retained by
42 the facility ~~and~~ after adherence to the notice ~~of hearing~~
43 procedures provided in s. 394.4599. The recommendation must be
44 supported by the opinion of a psychiatrist and the second
45 opinion of a clinical psychologist or another psychiatrist, both
46 of whom have personally examined the patient face-to-face or by
47 electronic means within the preceding 72 hours, that the
48 criteria for involuntary outpatient placement are met. However,
49 in a county having a population of fewer than 50,000, if the
50 administrator certifies that a ~~no~~ psychiatrist or clinical
51 psychologist is not available to provide the second opinion, the
52 second opinion may be provided through a face-to-face
53 examination or electronic means conducted by a licensed
54 physician who has postgraduate training and experience in
55 diagnosis and treatment of mental and nervous disorders or by a
56 psychiatric nurse ~~as defined in this chapter~~. Such a
57 recommendation must be entered on an involuntary outpatient
58 placement certificate that authorizes, ~~which certificate must~~

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59 ~~authorize~~ the receiving facility to retain the patient pending
60 completion of a hearing. The certificate shall be made a part of
61 the patient's clinical record.

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

76 3. The service provider shall prepare a written proposed
77 treatment plan in consultation with the patient or the patient's
78 guardian advocate, if appointed, for the court's consideration
79 for inclusion in the involuntary outpatient placement order. The
80 service provider shall also provide a copy of the proposed
81 treatment plan to the patient and the administrator of the
82 receiving facility. The treatment plan must specify the nature
83 and extent of the patient's mental illness, and ~~The treatment plan~~
84 ~~must~~ address the reduction of symptoms that necessitate
85 involuntary outpatient placement, and include measurable goals
86 and objectives for the services and treatment that are provided
87 to treat the person's mental illness and ~~to~~ assist the person in

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88 living and functioning in the community or to ~~attempt to~~ prevent
89 a relapse or deterioration. Service providers may select and
90 supervise ~~provide supervision to~~ other individuals to implement
91 specific aspects of the treatment plan. The services in the
92 treatment plan must be deemed ~~to be~~ clinically appropriate by a
93 physician, clinical psychologist, psychiatric nurse, mental
94 health counselor, marriage and family therapist, or clinical
95 social worker, ~~as defined in this chapter,~~ who consults with, or
96 is employed or contracted by, the service provider. The service
97 provider must certify to the court in the proposed treatment
98 plan whether sufficient services for improvement and
99 stabilization are currently available and whether the service
100 provider agrees to provide those services. If the service
101 provider certifies that the services in the proposed treatment
102 plan are not available, the petitioner may not file the
103 petition.

104 (b) If a patient in involuntary inpatient placement meets
105 the criteria for involuntary outpatient placement, the
106 administrator of the treatment facility may, before the
107 expiration of the period during which the treatment facility is
108 authorized to retain the patient, recommend involuntary
109 outpatient placement. The recommendation must be supported by
110 the opinion of a psychiatrist and the second opinion of a
111 clinical psychologist or another psychiatrist, both of whom have
112 personally examined the patient face-to-face or by electronic
113 means within the preceding 72 hours, that the criteria for
114 involuntary outpatient placement are met. However, in a county
115 having a population of fewer than 50,000, if the administrator
116 certifies that a ~~no~~ psychiatrist or clinical psychologist is not

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117 available to provide the second opinion, the second opinion may
118 be provided through a face-to-face examination or electronic
119 means conducted by a licensed physician who has postgraduate
120 training and experience in diagnosis and treatment of mental and
121 nervous disorders or by a psychiatric nurse ~~as defined in s.~~
122 ~~394.455(23)~~. Such a recommendation must be entered on an
123 involuntary outpatient placement certificate, and the
124 certificate must ~~shall~~ be made a part of the patient's clinical
125 record.

126 Section 3. Subsection (2) of section 394.467, Florida
127 Statutes, is amended to read:

128 394.467 Involuntary inpatient placement.—

129 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be
130 retained by a receiving facility or involuntarily placed in a
131 treatment facility upon the recommendation of the administrator
132 of the ~~a~~ receiving facility where the patient has been examined
133 and after adherence to the notice and hearing procedures
134 provided in s. 394.4599. The recommendation must be supported by
135 the opinion of a psychiatrist and the second opinion of a
136 clinical psychologist or another psychiatrist, both of whom have
137 personally examined the patient face-to-face or by electronic
138 means within the preceding 72 hours, that the criteria for
139 involuntary inpatient placement are met. However, in a county
140 that has a population of fewer ~~counties of less~~ than 50,000
141 ~~population~~, if the administrator certifies that a ~~no~~
142 psychiatrist or clinical psychologist is not available to
143 provide the second opinion, the ~~such~~ second opinion may be
144 provided through a face-to-face examination or electronic means
145 conducted by a licensed physician who has ~~with~~ postgraduate

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146 training and experience in diagnosis and treatment of mental and
147 nervous disorders or by a psychiatric nurse ~~as defined in s.~~
148 ~~394.455(23)~~. Such recommendation shall be entered on an
149 involuntary inpatient placement certificate that authorizes,
150 ~~which certificate shall authorize~~ the receiving facility to
151 retain the patient pending transfer to a treatment facility or
152 completion of a hearing.

153 Section 4. This act shall take effect July 1, 2009.