

By the Committees on Health Regulation; and Children, Families,
and Elder Affairs; and Senator Gaetz

588-03435-09

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1 A bill to be entitled
2 An act relating to mental illness; amending s.
3 394.455, F.S.; defining the term "electronic means";
4 amending s. 394.462, F.S.; requiring a law enforcement
5 agency that transports persons to a receiving facility
6 to have a memorandum of understanding with the
7 facility; requiring that custody of a person who is
8 transported to a receiving or treatment facility be
9 relinquished to a responsible person at the facility;
10 amending ss. 394.4655 and 394.467, F.S.; specifying
11 that a psychiatric examination by certain personnel be
12 conducted face-to-face, in person or by electronic
13 means; providing an effective date.

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

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

19 394.455 Definitions.—As used in this part, unless the
20 context clearly requires otherwise, the term:

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

24 Section 2. Present paragraphs (k) and (l) of subsection (1)
25 of section 394.462, Florida Statutes, are redesignated as
26 paragraphs (l) and (m), respectively, a new paragraph (k) is
27 added to that subsection, present subsection (3) of that section
28 is renumbered as subsection (4), and a new subsection (3) is
29 added to that section, to read:

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30 394.462 Transportation.—

31 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

32 (k) Each law enforcement agency shall develop a memorandum
33 of understanding with each receiving facility within the law
34 enforcement agency's jurisdiction which reflects a single set of
35 protocols for the safe and secure transportation of the person
36 and transfer of custody of the person. These protocols must also
37 address crisis-intervention measures.

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

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

44 394.4655 Involuntary outpatient placement.—

45 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

46 (a)1. A patient who is being recommended for involuntary
47 outpatient placement by ~~may be retained by a receiving facility~~
48 ~~upon the recommendation of the administrator of the~~ a receiving
49 facility where the patient has been examined ~~may be retained by~~
50 the facility ~~and~~ after adherence to the notice ~~of hearing~~
51 procedures provided in s. 394.4599. The recommendation must be
52 supported by the opinion of a psychiatrist and the second
53 opinion of a clinical psychologist or another psychiatrist, both
54 of whom have personally examined the patient face-to-face, in
55 person or by electronic means, within the preceding 72 hours,
56 that the criteria for involuntary outpatient placement are met.
57 However, in a county having a population of fewer than 50,000,
58 if the administrator certifies that a ~~no~~ psychiatrist or

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59 clinical psychologist is not available to provide the second
60 opinion, the second opinion may be provided through a face-to-
61 face examination, in person or by electronic means, conducted by
62 a licensed physician who has postgraduate training and
63 experience in diagnosis and treatment of mental and nervous
64 disorders or by a psychiatric nurse ~~as defined in this chapter.~~
65 Such a recommendation must be entered on an involuntary
66 outpatient placement certificate that authorizes, ~~which~~
67 ~~certificate must authorize~~ the receiving facility to retain the
68 patient pending completion of a hearing. The certificate shall
69 be made a part of the patient's clinical record.

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

84 3. The service provider shall prepare a written proposed
85 treatment plan in consultation with the patient or the patient's
86 guardian advocate, if appointed, for the court's consideration
87 for inclusion in the involuntary outpatient placement order. The

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88 service provider shall also provide a copy of the proposed
89 treatment plan to the patient and the administrator of the
90 receiving facility. The treatment plan must specify the nature
91 and extent of the patient's mental illness, ~~The treatment plan~~
92 ~~must~~ address the reduction of symptoms that necessitate
93 involuntary outpatient placement, and include measurable goals
94 and objectives for the services and treatment that are provided
95 to treat the person's mental illness and ~~to~~ assist the person in
96 living and functioning in the community or to ~~attempt to~~ prevent
97 a relapse or deterioration. Service providers may select and
98 supervise ~~provide supervision to~~ other individuals to implement
99 specific aspects of the treatment plan. The services in the
100 treatment plan must be deemed ~~to be~~ clinically appropriate by a
101 physician, clinical psychologist, psychiatric nurse, mental
102 health counselor, marriage and family therapist, or clinical
103 social worker, ~~as defined in this chapter,~~ who consults with, or
104 is employed or contracted by, the service provider. The service
105 provider must certify to the court in the proposed treatment
106 plan whether sufficient services for improvement and
107 stabilization are currently available and whether the service
108 provider agrees to provide those services. If the service
109 provider certifies that the services in the proposed treatment
110 plan are not available, the petitioner may not file the
111 petition.

112 (b) If a patient in involuntary inpatient placement meets
113 the criteria for involuntary outpatient placement, the
114 administrator of the treatment facility may, before the
115 expiration of the period during which the treatment facility is
116 authorized to retain the patient, recommend involuntary

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117 outpatient placement. The recommendation must be supported by
118 the opinion of a psychiatrist and the second opinion of a
119 clinical psychologist or another psychiatrist, both of whom have
120 personally examined the patient face-to-face, in person or by
121 electronic means, within the preceding 72 hours, that the
122 criteria for involuntary outpatient placement are met. However,
123 in a county having a population of fewer than 50,000, if the
124 administrator certifies that a ~~ne~~ psychiatrist or clinical
125 psychologist is not available to provide the second opinion, the
126 second opinion may be provided through a face-to-face
127 examination, in person or by electronic means, conducted by a
128 licensed physician who has postgraduate training and experience
129 in diagnosis and treatment of mental and nervous disorders or by
130 a psychiatric nurse ~~as defined in s. 394.455(23)~~. Such a
131 recommendation must be entered on an involuntary outpatient
132 placement certificate, and the certificate must ~~shall~~ be made a
133 part of the patient's clinical record.

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

136 394.467 Involuntary inpatient placement.—

137 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be
138 retained by a receiving facility or involuntarily placed in a
139 treatment facility upon the recommendation of the administrator
140 of the ~~a~~ receiving facility where the patient has been examined
141 and after adherence to the notice and hearing procedures
142 provided in s. 394.4599. The recommendation must be supported by
143 the opinion of a psychiatrist and the second opinion of a
144 clinical psychologist or another psychiatrist, both of whom have
145 personally examined the patient face-to-face, in person or by

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146 electronic means, within the preceding 72 hours, that the
147 criteria for involuntary inpatient placement are met. However,
148 in a county that has a population of fewer ~~counties of less~~ than
149 50,000 ~~population,~~ if the administrator certifies that a ~~ne~~
150 psychiatrist or clinical psychologist is not available to
151 provide the second opinion, the ~~such~~ second opinion may be
152 provided through a face-to-face examination, in person or by
153 electronic means, conducted by a licensed physician who has ~~with~~
154 postgraduate training and experience in diagnosis and treatment
155 of mental and nervous disorders or by a psychiatric nurse ~~as~~
156 ~~defined in s. 394.455(23).~~ Such recommendation shall be entered
157 on an involuntary inpatient placement certificate that
158 authorizes, ~~which certificate shall authorize~~ the receiving
159 facility to retain the patient pending transfer to a treatment
160 facility or completion of a hearing.

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