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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:

16
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 within the
55 preceding 72 hours, that the criteria for involuntary outpatient
56 placement are met. However, in a county having a population of
57 fewer than 50,000, if the administrator certifies that a ~~ne~~
58 psychiatrist or clinical psychologist is not available to

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59 provide the second opinion, the second opinion may be provided
60 by a licensed physician who has postgraduate training and
61 experience in diagnosis and treatment of mental and nervous
62 disorders or by a psychiatric nurse ~~as defined in this chapter~~.
63 Any second opinion authorized in this subparagraph may be
64 conducted through a face-to-face examination, in person or by
65 electronic means. Such ~~a~~ recommendation must be entered on an
66 involuntary outpatient placement certificate that authorizes,
67 ~~which certificate must authorize~~ the receiving facility to
68 retain the patient pending completion of a hearing. The
69 certificate shall be made a part of the patient's clinical
70 record.

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

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

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

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

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117 authorized to retain the patient, recommend involuntary
118 outpatient placement. The recommendation must be supported by
119 the opinion of a psychiatrist and the second opinion of a
120 clinical psychologist or another psychiatrist, both of whom have
121 personally examined the patient within the preceding 72 hours,
122 that the criteria for involuntary outpatient placement are met.
123 However, in a county having a population of fewer than 50,000,
124 if the administrator certifies that a ~~no~~ psychiatrist or
125 clinical psychologist is not available to provide the second
126 opinion, the second opinion may be provided by a licensed
127 physician who has postgraduate training and experience in
128 diagnosis and treatment of mental and nervous disorders or by a
129 psychiatric nurse ~~as defined in s. 394.455(23)~~. Any second
130 opinion authorized in this subparagraph may be conducted through
131 a face-to-face examination, in person or by electronic means.
132 Such ~~a~~ recommendation must be entered on an involuntary
133 outpatient placement certificate, and the certificate must ~~shall~~
134 be made a part of the patient's clinical record.

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

137 394.467 Involuntary inpatient placement.—

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

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146 personally examined the patient within the preceding 72 hours,
147 that the criteria for involuntary inpatient placement are met.
148 However, in a county that has a population of fewer ~~counties of~~
149 ~~less~~ than 50,000 ~~population~~, if the administrator certifies that
150 a ~~no~~ psychiatrist or clinical psychologist is not available to
151 provide the second opinion, the ~~such~~ second opinion may be
152 provided by a licensed physician who has ~~with~~ postgraduate
153 training and experience in diagnosis and treatment of mental and
154 nervous disorders or by a psychiatric nurse ~~as defined in s.~~
155 ~~394.455(23)~~. Any second opinion authorized in this subsection
156 may be conducted through a face-to-face examination, in person
157 or by electronic means. Such recommendation shall be entered on
158 an involuntary inpatient placement certificate that authorizes,
159 ~~which certificate shall authorize~~ the receiving facility to
160 retain the patient pending transfer to a treatment facility or
161 completion of a hearing.

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