

2009456er

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

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

17  
18 Section 1. This act may be cited as the "Deputy Anthony  
19 Forgione Act."

20 Section 2. Subsection (38) is added to section 394.455,  
21 Florida Statutes, to read:

22 394.455 Definitions.—As used in this part, unless the  
23 context clearly requires otherwise, the term:

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

27 Section 3. Present paragraphs (k) and (l) of subsection (1)  
28 of section 394.462, Florida Statutes, are redesignated as  
29 paragraphs (l) and (m), respectively, a new paragraph (k) is

2009456er

30 added to that subsection, present subsection (3) of that section  
31 is renumbered as subsection (4), and a new subsection (3) is  
32 added to that section, to read:

33 394.462 Transportation.—

34 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

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

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

45 Section 4. Paragraphs (a) and (b) of subsection (2) of  
46 section 394.4655, Florida Statutes, are amended to read:

47 394.4655 Involuntary outpatient placement.—

48 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

49 (a)1. A patient who is being recommended for involuntary  
50 outpatient placement by ~~may be retained by a receiving facility~~  
51 ~~upon the recommendation of the administrator of the~~ a receiving  
52 facility where the patient has been examined ~~may be retained by~~  
53 the facility ~~and~~ after adherence to the notice ~~of hearing~~  
54 procedures provided in s. 394.4599. The recommendation must be  
55 supported by the opinion of a psychiatrist and the second  
56 opinion of a clinical psychologist or another psychiatrist, both  
57 of whom have personally examined the patient within the  
58 preceding 72 hours, that the criteria for involuntary outpatient

2009456er

59 placement are met. However, in a county having a population of  
60 fewer than 50,000, if the administrator certifies that a ~~no~~  
61 psychiatrist or clinical psychologist is not available to  
62 provide the second opinion, the second opinion may be provided  
63 by a licensed physician who has postgraduate training and  
64 experience in diagnosis and treatment of mental and nervous  
65 disorders or by a psychiatric nurse ~~as defined in this chapter~~.  
66 Any second opinion authorized in this subparagraph may be  
67 conducted through a face-to-face examination, in person or by  
68 electronic means. Such ~~a~~ recommendation must be entered on an  
69 involuntary outpatient placement certificate that authorizes,  
70 ~~which certificate must authorize~~ the receiving facility to  
71 retain the patient pending completion of a hearing. The  
72 certificate shall be made a part of the patient's clinical  
73 record.

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

2009456er

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

116           (b) If a patient in involuntary inpatient placement meets

2009456er

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

138 Section 5. Subsection (2) of section 394.467, Florida  
139 Statutes, is amended to read:

140 394.467 Involuntary inpatient placement.—

141 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be  
142 retained by a receiving facility or involuntarily placed in a  
143 treatment facility upon the recommendation of the administrator  
144 of the ~~a~~ receiving facility where the patient has been examined  
145 and after adherence to the notice and hearing procedures

2009456er

146 provided in s. 394.4599. The recommendation must be supported by  
147 the opinion of a psychiatrist and the second opinion of a  
148 clinical psychologist or another psychiatrist, both of whom have  
149 personally examined the patient within the preceding 72 hours,  
150 that the criteria for involuntary inpatient placement are met.  
151 However, in a county that has a population of fewer ~~counties of~~  
152 ~~less~~ than 50,000 ~~population~~, if the administrator certifies that  
153 a ~~no~~ psychiatrist or clinical psychologist is not available to  
154 provide the second opinion, the ~~such~~ second opinion may be  
155 provided by a licensed physician who has ~~with~~ postgraduate  
156 training and experience in diagnosis and treatment of mental and  
157 nervous disorders or by a psychiatric nurse ~~as defined in s.~~  
158 ~~394.455(23)~~. Any second opinion authorized in this subsection  
159 may be conducted through a face-to-face examination, in person  
160 or by electronic means. Such recommendation shall be entered on  
161 an involuntary inpatient placement certificate that authorizes,  
162 ~~which certificate shall authorize~~ the receiving facility to  
163 retain the patient pending transfer to a treatment facility or  
164 completion of a hearing.

165 Section 6. This act shall take effect July 1, 2009.