



156280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
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The Committee on Judiciary (Bean) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 700 - 732

and insert:

~~have~~ a mental illness but who has ~~are~~ not been charged with a criminal offense may ~~shall~~ not be detained or incarcerated in the jails of this state. An individual ~~A person~~ who is receiving treatment for mental illness or substance abuse may ~~shall~~ not be deprived of his or her ~~any~~ constitutional rights. However, if such individual ~~a person~~ is adjudicated incapacitated, his or her rights may be limited to the same extent that the rights of



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12 any incapacitated individual ~~person~~ are limited by law.

13 (2) PROTECTIVE CUSTODY WITHOUT CONSENT FOR SUBSTANCE ABUSE
14 IMPAIRMENT.—An individual who has a substance abuse impairment
15 but who has not been charged with a criminal offense may be
16 placed in protective custody without his or her consent, subject
17 to the limitations specified in this subsection. If it has been
18 determined that a hospital, an addictions receiving facility, or
19 a licensed detoxification facility is the most appropriate
20 placement for the individual, law enforcement may implement
21 protective custody measures as specified in this subsection.

22 (a) An individual meets the criteria for placement in
23 protective custody if there is a good faith reason to believe
24 that the individual is impaired by substance abuse, has lost the
25 power of self-control with respect to substance use because of
26 such impairment, and:

27 1. Has inflicted, or threatened or attempted to inflict, or
28 unless admitted is likely to inflict, physical harm on himself
29 or herself or another; or

30 2. Is in need of substance abuse services and, by reason of
31 substance abuse impairment, is incapacitated and unable to make
32 a rational decision with regard thereto. However, mere refusal
33 to seek or obtain such services does not constitute evidence of
34 lack of judgment with respect to his or her need for such
35 services.

36 (b) If an individual who is in circumstances that justify
37 protective custody as described in paragraph (a) fails or
38 refuses to consent to assistance and a law enforcement officer
39 has determined that a hospital, an addictions receiving
40 facility, or a licensed detoxification facility is the most



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41 appropriate place for such individual, the officer may, after
42 giving due consideration to the expressed wishes of the
43 individual:

44 1. Take the individual to a hospital, an addictions
45 receiving facility, or a licensed detoxification facility
46 against the individual's will but without using unreasonable
47 force; or

48 2. In the case of an adult, detain the individual for his
49 or her own protection in any municipal or county jail or other
50 appropriate detention facility.

51
52 Detention under this paragraph is not to be considered an arrest
53 for any purpose, and an entry or other record may not be made to
54 indicate that the individual has been detained or charged with
55 any crime. The officer in charge of the detention facility must
56 notify the nearest appropriate licensed service provider within
57 8 hours after detention that the individual has been detained.
58 The detention facility must arrange, as necessary, for
59 transportation of the individual to an appropriate licensed
60 service provider with an available bed. Individuals detained
61 under this paragraph must be assessed by an attending physician
62 without unnecessary delay and within a 72-hour period to
63 determine the need for further services.

64 (c) The nearest relative of a minor in protective custody
65 must be notified by the law enforcement officer, as must the
66 nearest relative of an adult, unless the adult requests that
67 there be no notification.

68 (d) An individual who is in protective custody must be
69 released by a qualified professional when any of the following



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70 circumstances occur:

71 1. The individual no longer meets the protective custody
72 criteria set out in paragraph (a);

73 2. A 72-hour period has elapsed since the individual was
74 taken into custody; or

75 3. The individual has consented voluntarily to readmission
76 at the facility of the licensed service provider.

77 (e) An individual may be detained in protective custody
78 beyond the 72-hour period if a petitioner has initiated
79 proceedings for involuntary assessment or treatment. The timely
80 filing of the petition authorizes the service provider to retain
81 physical custody of the individual pending further order of the
82 court.

83
84 Delete line 3202

85 and insert:

86 394.459(4)(a) s. ~~394.459(3)(a)~~, from the child's parent or legal
87 guardian. The

88
89 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

90 And the directory clause is amended as follows:

91 Delete lines 683 - 686

92 and insert:

93 Section 5. Subsection (1), present subsections 2 through
94 (6), and present subsection (8) of section 394.459, Florida
95 Statutes, are amended, present subsections (2) through (11) of
96 that section are redesignated as subsections (3) through (12),
97 respectively, present subsection (12) of that section is
98 redesignated as subsection (14), and new subsections (2) and



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99 (13) are added to that section, to read:
100
101 ===== T I T L E A M E N D M E N T =====
102 And the title is amended as follows:
103 Delete line 24
104 and insert:
105 who has a substance abuse impairment