

By Senator Ring

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1 A bill to be entitled
2 An act relating to public records; amending ss.
3 394.463, 394.4655, 394.467, and 394.4615, F.S.;
4 providing exemptions from public records requirements
5 for petitions to determine incapacity; listing persons
6 to whom the clerk of the court shall allow access to
7 the petition; providing for future legislative review
8 and repeal of the exemptions; providing a statement of
9 public necessity; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Paragraph (a) of subsection (2) of section
14 394.463, Florida Statutes, is amended to read:

15 394.463 Involuntary examination.—

16 (2) INVOLUNTARY EXAMINATION.—

17 (a) An involuntary examination may be initiated by any one
18 of the following means:

19 1.a. A court may enter an ex parte order stating that a
20 person appears to meet the criteria for involuntary examination,
21 giving the findings on which that conclusion is based. The ex
22 parte order for involuntary examination must be based on sworn
23 testimony, written or oral. If other less restrictive means are
24 not available, such as voluntary appearance for outpatient
25 evaluation, a law enforcement officer, or other designated agent
26 of the court, shall take the person into custody and deliver him
27 or her to the nearest receiving facility for involuntary
28 examination. The order of the court shall be made a part of the
29 patient's clinical record. No fee shall be charged for the
30 filing of an order under this subsection. Any receiving facility
31 accepting the patient based on this order must send a copy of
32 the order to the Agency for Health Care Administration on the

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33 next working day. The order shall be valid only until executed
34 or, if not executed, for the period specified in the order
35 itself. If no time limit is specified in the order, the order
36 shall be valid for 7 days after the date that the order was
37 signed.

38 b. The petition and any ex parte order entered by the court
39 under this subparagraph are confidential and exempt from s.
40 119.07(1) and s. 24(a), Art. I of the State Constitution. A
41 petition made confidential and exempt by this sub-subparagraph
42 shall be disclosed by the clerk of the court, upon request, to a
43 judge of the circuit, the respondent, a guardian, a health care
44 surrogate or proxy, an attorney of record for the respondent,
45 and to any other person as directed by order of the court. This
46 sub-subparagraph is subject to the Open Government Sunset Review
47 Act in accordance with s. 119.15 and shall stand repealed on
48 October 2, 2021, unless reviewed and saved from repeal through
49 reenactment by the Legislature.

50 2. A law enforcement officer shall take a person who
51 appears to meet the criteria for involuntary examination into
52 custody and deliver the person or have him or her delivered to
53 the nearest receiving facility for examination. The officer
54 shall execute a written report detailing the circumstances under
55 which the person was taken into custody, and the report shall be
56 made a part of the patient's clinical record. Any receiving
57 facility accepting the patient based on this report must send a
58 copy of the report to the Agency for Health Care Administration
59 on the next working day.

60 3. A physician, clinical psychologist, psychiatric nurse,
61 mental health counselor, marriage and family therapist, or

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62 clinical social worker may execute a certificate stating that he
63 or she has examined a person within the preceding 48 hours and
64 finds that the person appears to meet the criteria for
65 involuntary examination and stating the observations upon which
66 that conclusion is based. If other less restrictive means are
67 not available, such as voluntary appearance for outpatient
68 evaluation, a law enforcement officer shall take the person
69 named in the certificate into custody and deliver him or her to
70 the nearest receiving facility for involuntary examination. The
71 law enforcement officer shall execute a written report detailing
72 the circumstances under which the person was taken into custody.
73 The report and certificate shall be made a part of the patient's
74 clinical record. Any receiving facility accepting the patient
75 based on this certificate must send a copy of the certificate to
76 the Agency for Health Care Administration on the next working
77 day.

78 Section 2. Paragraph (d) is added to subsection (3) of
79 section 394.4655, Florida Statutes, to read:

80 394.4655 Involuntary outpatient placement.—

81 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

82 (d) The petition and any order entered by the court are
83 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
84 of the State Constitution. A petition made confidential and
85 exempt by this paragraph shall be disclosed by the clerk of the
86 court, upon request, to a judge of the circuit, the respondent,
87 a guardian, a health care surrogate or proxy, an attorney of
88 record for the respondent, and to any other person as directed
89 by order of the court. The clerk of the court may not post any
90 personal identifying information on the docket or in publicly

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91 accessible files. This paragraph is subject to the Open
92 Government Sunset Review Act in accordance with s. 119.15 and
93 shall stand repealed on October 2, 2021, unless reviewed and
94 saved from repeal through reenactment by the Legislature.

95 Section 3. Subsection (3) of section 394.467, Florida
96 Statutes, is amended to read:

97 394.467 Involuntary inpatient placement.—

98 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

99 (a) The administrator of the facility shall file a petition
100 for involuntary inpatient placement in the court in the county
101 where the patient is located. Upon filing, the clerk of the
102 court shall provide copies to the department, the patient, the
103 patient's guardian or representative, and the state attorney and
104 public defender of the judicial circuit in which the patient is
105 located. No fee shall be charged for the filing of a petition
106 under this subsection.

107 (b) The petition and any order entered by the court is
108 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
109 of the State Constitution. A petition made confidential and
110 exempt by this paragraph shall be disclosed by the clerk of the
111 court, upon request, to a judge of the circuit, the respondent,
112 a guardian, a health care surrogate or proxy, an attorney of
113 record for the respondent, and to any other person as directed
114 by order of the court. The clerk of the court may not post any
115 personal identifying information on the docket or in publicly
116 accessible files. This paragraph is subject to the Open
117 Government Sunset Review Act in accordance with s. 119.15 and
118 shall stand repealed on October 2, 2021, unless reviewed and
119 saved from repeal through reenactment by the Legislature.

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120 Section 4. Subsection (12) is added to section 394.4615,
121 Florida Statutes, to read:

122 394.4615 Clinical records; confidentiality.—

123 (12) All personal identifying information about an
124 individual for whom a petition is filed or order entered by a
125 judge pursuant to part I of chapter 394, and filed with the
126 clerk of the court is confidential and exempt from s. 119.07(1)
127 and s. 24(a), Art. I of the State Constitution. A petition or
128 order made confidential and exempt by this subsection shall be
129 disclosed by the clerk of the court, upon request, to a judge of
130 the circuit, the respondent, a guardian, a health care surrogate
131 or proxy, an attorney of record for the respondent, and to any
132 other person as directed by order of the court. The clerk of the
133 court may not post any personal identifying information on the
134 docket or in publicly accessible files. This subsection is
135 subject to the Open Government Sunset Review Act in accordance
136 with s. 119.15 and shall stand repealed on October 2, 2021,
137 unless reviewed and saved from repeal through reenactment by the
138 Legislature.

139 Section 5. The Legislature finds that it is a public
140 necessity to exempt from s. 119.07(1), Florida Statutes, and s.
141 24(a), Article I of the State Constitution all personal
142 identifying information about an individual for whom a petition
143 is filed or order entered by a judge pursuant to part I of
144 chapter 394, Florida Statutes, that is contained in such
145 petitions or orders, or dockets concerning them, whether
146 initial, amended, or supplementary, in order to preserve the
147 privacy of the person by preserving the privacy of information
148 in the petition or order or docket that would otherwise be

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149 accessible to the public. The Legislature finds that the public
150 disclosure of such information in the petition or order or
151 docket would produce undue harm to an individual alleged to have
152 a mental illness.

153 Section 6. This act shall take effect July 1, 2016.