

By the Committee on Judiciary; and Senator Ring

590-02354-16

20161278c1

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

590-02354-16

20161278c1

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

590-02354-16

20161278c1

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

590-02354-16

20161278c1

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118 and shall stand repealed on October 2, 2021, unless reviewed and  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

590-02354-16

20161278c1

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

590-02354-16

20161278c1

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.