

By Senator Ring

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1                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           394.4615, F.S.; providing exemptions from public  
4           records requirements for all personal identifying  
5           information of an individual for whom a petition or  
6           order is filed under The Baker Act; requiring the  
7           clerk of courts to allow access to such petition or  
8           order to specified persons upon request or by court  
9           order; providing for future legislative review and  
10          repeal of the exemption; amending s. 394.463, F.S.;  
11          providing exemptions from public records requirements  
12          for the petition and any ex parte orders for  
13          involuntary examination; requiring the clerk of courts  
14          to allow access to the petition to specified persons  
15          upon request or by court order; providing for future  
16          legislative review and repeal of the exemption;  
17          amending ss. 394.4655 and 394.467, F.S.; providing  
18          exemptions from public records requirements for  
19          petitions and court orders for involuntary outpatient  
20          or inpatient placement; requiring the clerk of courts  
21          to allow access to the petition or order for  
22          involuntary placement to specified persons upon  
23          request or by court order; prohibiting the clerk from  
24          posting personal identifying information in specified  
25          places; providing for future legislative review and  
26          repeal of the exemptions; providing a statement of  
27          public necessity; providing an effective date.

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

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31           Section 1. Subsection (12) is added to section 394.4615,  
32   Florida Statutes, to read:

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33 394.4615 Clinical records; confidentiality.-

34 (12) All personal identifying information about an  
35 individual for whom a petition is filed or order entered by a  
36 judge pursuant to part I of chapter 394, and filed with the  
37 clerk of the court is confidential and exempt from s. 119.07(1)  
38 and s. 24(a), Art. I of the State Constitution. A petition or an  
39 order made confidential and exempt by this subsection shall be  
40 disclosed by the clerk of the court, upon request, to a judge of  
41 the circuit, the respondent, a guardian, a health care surrogate  
42 or proxy, an attorney of record for the respondent, and to any  
43 other person as directed by order of the court. The clerk of the  
44 court may not post any personal identifying information on the  
45 docket or in publicly accessible files. This subsection is  
46 subject to the Open Government Sunset Review Act in accordance  
47 with s. 119.15 and shall stand repealed on October 2, 2021,  
48 unless reviewed and saved from repeal through reenactment by the  
49 Legislature.

50 Section 2. Paragraph (a) of subsection (2) of section  
51 394.463, Florida Statutes, is amended to read:

52 394.463 Involuntary examination.-

53 (2) INVOLUNTARY EXAMINATION.-

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

56 1.a. A court may enter an ex parte order stating that a  
57 person appears to meet the criteria for involuntary examination,  
58 giving the findings on which that conclusion is based. The ex  
59 parte order for involuntary examination must be based on sworn  
60 testimony, written or oral. If other less restrictive means are  
61 not available, such as voluntary appearance for outpatient

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62 evaluation, a law enforcement officer, or other designated agent  
63 of the court, shall take the person into custody and deliver him  
64 or her to the nearest receiving facility for involuntary  
65 examination. The order of the court shall be made a part of the  
66 patient's clinical record. No fee shall be charged for the  
67 filing of an order under this subsection. Any receiving facility  
68 accepting the patient based on this order must send a copy of  
69 the order to the Agency for Health Care Administration on the  
70 next working day. The order shall be valid only until executed  
71 or, if not executed, for the period specified in the order  
72 itself. If no time limit is specified in the order, the order  
73 shall be valid for 7 days after the date that the order was  
74 signed.

75 b. The petition and any ex parte order entered by the court  
76 under this subparagraph are confidential and exempt from s.  
77 119.07(1) and s. 24(a), Art. I of the State Constitution. A  
78 petition made confidential and exempt by this sub-subparagraph  
79 shall be disclosed by the clerk of the court, upon request, to a  
80 judge of the circuit, the respondent, a guardian, a health care  
81 surrogate or proxy, an attorney of record for the respondent,  
82 and to any other person as directed by order of the court. This  
83 sub-subparagraph is subject to the Open Government Sunset Review  
84 Act in accordance with s. 119.15 and shall stand repealed on  
85 October 2, 2021, unless reviewed and saved from repeal through  
86 reenactment by the Legislature.

87 2. A law enforcement officer shall take a person who  
88 appears to meet the criteria for involuntary examination into  
89 custody and deliver the person or have him or her delivered to  
90 the nearest receiving facility for examination. The officer

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91 shall execute a written report detailing the circumstances under  
92 which the person was taken into custody, and the report shall be  
93 made a part of the patient's clinical record. Any receiving  
94 facility accepting the patient based on this report must send a  
95 copy of the report to the Agency for Health Care Administration  
96 on the next working day.

97 3. A physician, clinical psychologist, psychiatric nurse,  
98 mental health counselor, marriage and family therapist, or  
99 clinical social worker may execute a certificate stating that he  
100 or she has examined a person within the preceding 48 hours and  
101 finds that the person appears to meet the criteria for  
102 involuntary examination and stating the observations upon which  
103 that conclusion is based. If other less restrictive means are  
104 not available, such as voluntary appearance for outpatient  
105 evaluation, a law enforcement officer shall take the person  
106 named in the certificate into custody and deliver him or her to  
107 the nearest receiving facility for involuntary examination. The  
108 law enforcement officer shall execute a written report detailing  
109 the circumstances under which the person was taken into custody.  
110 The report and certificate shall be made a part of the patient's  
111 clinical record. Any receiving facility accepting the patient  
112 based on this certificate must send a copy of the certificate to  
113 the Agency for Health Care Administration on the next working  
114 day.

115 Section 3. Paragraph (d) is added to subsection (3) of  
116 section 394.4655, Florida Statutes, to read:

117 394.4655 Involuntary outpatient placement.—

118 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

119 (d) The petition and any order entered by the court are

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

132 Section 4. Subsection (3) of section 394.467, Florida  
133 Statutes, is amended to read:

134 394.467 Involuntary inpatient placement.—

135 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

136 (a) The administrator of the facility shall file a petition  
137 for involuntary inpatient placement in the court in the county  
138 where the patient is located. Upon filing, the clerk of the  
139 court shall provide copies to the department, the patient, the  
140 patient's guardian or representative, and the state attorney and  
141 public defender of the judicial circuit in which the patient is  
142 located. No fee shall be charged for the filing of a petition  
143 under this subsection.

144 (b) The petition and any order entered by the court is  
145 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
146 of the State Constitution. A petition made confidential and  
147 exempt by this paragraph shall be disclosed by the clerk of the  
148 court, upon request, to a judge of the circuit, the respondent,

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149 a guardian, a health care surrogate or proxy, an attorney of  
150 record for the respondent, and to any other person as directed  
151 by order of the court. The clerk of the court may not post any  
152 personal identifying information on the docket or in publicly  
153 accessible files. This paragraph is subject to the Open  
154 Government Sunset Review Act in accordance with s. 119.15 and  
155 shall stand repealed on October 2, 2021, unless reviewed and  
156 saved from repeal through reenactment by the Legislature.

157 Section 5. The Legislature finds that it is a public  
158 necessity to exempt from s. 119.07(1), Florida Statutes, and s.  
159 24(a), Article I of the State Constitution all personal  
160 identifying information about an individual for whom a petition  
161 is filed or an order entered by a judge pursuant to part I of  
162 chapter 394, Florida Statutes, which is contained in such  
163 petitions or orders or dockets concerning them, whether initial,  
164 amended, or supplementary, in order to preserve the privacy of  
165 the person by preserving the privacy of information in the  
166 petition or order or docket that would otherwise be accessible  
167 to the public. The Legislature finds that the public disclosure  
168 of such information in the petition or order or docket would  
169 produce undue harm to an individual alleged to have a mental  
170 illness.

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