

By Senator Legg

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1 A bill to be entitled
2 An act relating to involuntary commitment under the
3 Baker Act; amending s. 394.463, F.S.; requiring
4 evidence of Alzheimer's disease or a dementia-related
5 disorder to be indicated in a court order for
6 involuntary examination or in a law enforcement
7 officer's report; providing for temporary placement in
8 a secure area within the receiving facility designated
9 for persons with Alzheimer's disease or a dementia-
10 related disorder; limiting the timeframe for
11 examination of persons with Alzheimer's disease or a
12 dementia-related disorder; amending s. 394.4655, F.S.;
13 providing for temporary placement in a secure area
14 within the receiving facility designated for persons
15 with Alzheimer's disease or a dementia-related
16 disorder; limiting the timeframe for examination of
17 persons with Alzheimer's disease or a dementia-related
18 disorder; requiring evidence of Alzheimer's disease or
19 a dementia-related disorder to be indicated on an
20 involuntary outpatient placement certificate;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraphs (a), (f), (g), and (i) of subsection
26 (2) of section 394.463, Florida Statutes, are amended to read:

27 394.463 Involuntary examination.—

28 (2) INVOLUNTARY EXAMINATION.—

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

31 1. A court may enter an ex parte order stating that a
32 person appears to meet the criteria for involuntary examination,

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33 giving the findings on which that conclusion is based. If a
34 person exhibits signs of Alzheimer's disease or a dementia-
35 related disorder, this condition must be indicated in the ex
36 parte order for involuntary examination. The ex parte order for
37 involuntary examination must be based on sworn testimony,
38 written or oral. If other less restrictive means are not
39 available, such as voluntary appearance for outpatient
40 evaluation, a law enforcement officer, or other designated agent
41 of the court, shall take the person into custody and deliver him
42 or her to the nearest receiving facility for involuntary
43 examination. If the person exhibits signs of Alzheimer's disease
44 or a dementia-related disorder, the person shall be temporarily
45 placed in a secure area within the receiving facility designated
46 for persons with Alzheimer's disease or a dementia-related
47 disorder where the person is permitted to interact with a family
48 member or caregiver. The order of the court shall be made a part
49 of the patient's clinical record. No fee shall be charged for
50 the filing of an order under this subsection. Any receiving
51 facility accepting the patient based on this order must send a
52 copy of the order to the Agency for Health Care Administration
53 on the next working day. The order shall be valid only until
54 executed or, if not executed, for the period specified in the
55 order itself. If no time limit is specified in the order, the
56 order shall be valid for 7 days after the date that the order
57 was signed.

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

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62 shall execute a written report detailing the circumstances under
63 which the person was taken into custody, and the report shall be
64 made a part of the patient's clinical record. If a person
65 exhibits signs of Alzheimer's disease or a dementia-related
66 disorder, this condition must be noted in the report. Any
67 receiving facility accepting the patient based on this report
68 must send a copy of the report to the Agency for Health Care
69 Administration on the next working day.

70 3. A physician, clinical psychologist, psychiatric nurse,
71 mental health counselor, marriage and family therapist, or
72 clinical social worker may execute a certificate stating that he
73 or she has examined a person within the preceding 48 hours, or
74 in the case of a person whose symptoms indicate that he or she
75 may have Alzheimer's disease or a dementia-related disorder,
76 within the preceding 8 hours, and finds that the person appears
77 to meet the criteria for involuntary examination and stating the
78 observations upon which that conclusion is based. If other less
79 restrictive means are not available, such as voluntary
80 appearance for outpatient evaluation, a law enforcement officer
81 shall take the person named in the certificate into custody and
82 deliver him or her to the nearest receiving facility for
83 involuntary examination. The law enforcement officer shall
84 execute a written report detailing the circumstances under which
85 the person was taken into custody. If a person exhibits signs of
86 Alzheimer's disease or a dementia-related disorder, this
87 condition must be noted in the report. The report and
88 certificate shall be made a part of the patient's clinical
89 record. Any receiving facility accepting the patient based on
90 this certificate must send a copy of the certificate to the

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91 Agency for Health Care Administration on the next working day.

92 (f) A patient shall be examined by a physician, a clinical
93 psychologist, or a psychiatric nurse performing within the
94 framework of an established protocol with a psychiatrist at a
95 receiving facility without unnecessary delay and may, upon the
96 order of a physician, be given emergency treatment if it is
97 determined that such treatment is necessary for the safety of
98 the patient or others. The patient may not be released by the
99 receiving facility or its contractor without the documented
100 approval of a psychiatrist or a clinical psychologist or, if the
101 receiving facility is owned or operated by a hospital or health
102 system, the release may also be approved by a psychiatric nurse
103 performing within the framework of an established protocol with
104 a psychiatrist or an attending emergency department physician
105 with experience in the diagnosis and treatment of mental and
106 nervous disorders and after completion of an involuntary
107 examination pursuant to this subsection. A psychiatric nurse may
108 not approve the release of a patient if the involuntary
109 examination was initiated by a psychiatrist unless the release
110 is approved by the initiating psychiatrist. However, a patient
111 may not be held in a receiving facility for involuntary
112 examination longer than 72 hours, or in the case of a person
113 whose symptoms indicate that he or she may have Alzheimer's
114 disease or a dementia-related disorder, longer than 8 hours.

115 (g) A person for whom an involuntary examination has been
116 initiated who is being evaluated or treated at a hospital for an
117 emergency medical condition specified in s. 395.002 must be
118 examined by a receiving facility within 72 hours, or in the case
119 of a person whose symptoms indicate that he or she may have

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120 Alzheimer's disease or a dementia-related disorder, within 8
121 hours. The examination ~~72-hour~~ period begins when the patient
122 arrives at the hospital and ceases when the attending physician
123 documents that the patient has an emergency medical condition.
124 If the patient is examined at a hospital providing emergency
125 medical services by a professional qualified to perform an
126 involuntary examination and is found as a result of that
127 examination not to meet the criteria for involuntary outpatient
128 placement pursuant to s. 394.4655(1) or involuntary inpatient
129 placement pursuant to s. 394.467(1), the patient may be offered
130 voluntary placement, if appropriate, or released directly from
131 the hospital providing emergency medical services. The finding
132 by the professional that the patient has been examined and does
133 not meet the criteria for involuntary inpatient placement or
134 involuntary outpatient placement must be entered into the
135 patient's clinical record. Nothing in this paragraph is intended
136 to prevent a hospital providing emergency medical services from
137 appropriately transferring a patient to another hospital prior
138 to stabilization, provided the requirements of s. 395.1041(3)(c)
139 have been met.

140 (i) Within the ~~72-hour~~ examination period provided in
141 paragraph (g) or, if the examination period ~~72 hours~~ ends on a
142 weekend or holiday, no later than the next working day
143 thereafter, one of the following actions must be taken, based on
144 the individual needs of the patient:

145 1. The patient shall be released, unless he or she is
146 charged with a crime, in which case the patient shall be
147 returned to the custody of a law enforcement officer;

148 2. The patient shall be released, subject to the provisions

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149 of subparagraph 1., for voluntary outpatient treatment;

150 3. The patient, unless he or she is charged with a crime,
151 shall be asked to give express and informed consent to placement
152 as a voluntary patient, and, if such consent is given, the
153 patient shall be admitted as a voluntary patient; or

154 4. A petition for involuntary placement shall be filed in
155 the circuit court when outpatient or inpatient treatment is
156 deemed necessary. When inpatient treatment is deemed necessary,
157 the least restrictive treatment consistent with the optimum
158 improvement of the patient's condition shall be made available.
159 When a petition is to be filed for involuntary outpatient
160 placement, it shall be filed by one of the petitioners specified
161 in s. 394.4655(3)(a). A petition for involuntary inpatient
162 placement shall be filed by the facility administrator.

163 Section 2. Paragraph (a) of subsection (2) of section
164 394.4655, Florida Statutes, is amended to read:

165 394.4655 Involuntary outpatient placement.-

166 (2) INVOLUNTARY OUTPATIENT PLACEMENT.-

167 (a)1. A patient who is being recommended for involuntary
168 outpatient placement by the administrator of the receiving
169 facility where the patient has been examined may be retained by
170 the facility after adherence to the notice procedures provided
171 in s. 394.4599. If the patient exhibits signs of Alzheimer's
172 disease or a dementia-related disorder, the patient shall be
173 temporarily placed in a secure area within the receiving
174 facility designated for persons with Alzheimer's disease or a
175 dementia-related disorder where the patient is permitted to
176 interact with a family member or caregiver. The recommendation
177 for involuntary outpatient placement must be supported by the

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178 opinion of a psychiatrist and the second opinion of a clinical
179 psychologist or another psychiatrist, both of whom have
180 personally examined the patient within the preceding 72 hours,
181 or in the case of a person whose symptoms indicate that he or
182 she may have Alzheimer's disease or a dementia-related disorder,
183 within the preceding 8 hours, that the criteria for involuntary
184 outpatient placement are met. However, in a county having a
185 population of fewer than 50,000, if the administrator certifies
186 that a psychiatrist or clinical psychologist is not available to
187 provide the second opinion, the second opinion may be provided
188 by a licensed physician who has postgraduate training and
189 experience in diagnosis and treatment of mental and nervous
190 disorders or by a psychiatric nurse. Any second opinion
191 authorized in this subparagraph may be conducted through a face-
192 to-face examination, in person or by electronic means. Such
193 recommendation must be entered on an involuntary outpatient
194 placement certificate that authorizes the receiving facility to
195 retain the patient pending completion of a hearing. If a person
196 exhibits signs of Alzheimer's disease or a dementia-related
197 disorder, this condition must be noted on the involuntary
198 outpatient placement certificate. The certificate shall be made
199 a part of the patient's clinical record.

200 2. If the patient has been stabilized and no longer meets
201 the criteria for involuntary examination pursuant to s.
202 394.463(1), the patient must be released from the receiving
203 facility while awaiting the hearing for involuntary outpatient
204 placement. Before filing a petition for involuntary outpatient
205 treatment, the administrator of a receiving facility or a
206 designated department representative must identify the service

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207 provider that will have primary responsibility for service
208 provision under an order for involuntary outpatient placement,
209 unless the person is otherwise participating in outpatient
210 psychiatric treatment and is not in need of public financing for
211 that treatment, in which case the individual, if eligible, may
212 be ordered to involuntary treatment pursuant to the existing
213 psychiatric treatment relationship.

214 3. The service provider shall prepare a written proposed
215 treatment plan in consultation with the patient or the patient's
216 guardian advocate, if appointed, for the court's consideration
217 for inclusion in the involuntary outpatient placement order. The
218 service provider shall also provide a copy of the proposed
219 treatment plan to the patient and the administrator of the
220 receiving facility. The treatment plan must specify the nature
221 and extent of the patient's mental illness, address the
222 reduction of symptoms that necessitate involuntary outpatient
223 placement, and include measurable goals and objectives for the
224 services and treatment that are provided to treat the person's
225 mental illness and assist the person in living and functioning
226 in the community or to prevent a relapse or deterioration.
227 Service providers may select and supervise other individuals to
228 implement specific aspects of the treatment plan. The services
229 in the treatment plan must be deemed clinically appropriate by a
230 physician, clinical psychologist, psychiatric nurse, mental
231 health counselor, marriage and family therapist, or clinical
232 social worker who consults with, or is employed or contracted
233 by, the service provider. The service provider must certify to
234 the court in the proposed treatment plan whether sufficient
235 services for improvement and stabilization are currently

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236 available and whether the service provider agrees to provide
237 those services. If the service provider certifies that the
238 services in the proposed treatment plan are not available, the
239 petitioner may not file the petition.

240 Section 3. This act shall take effect July 1, 2016.