

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

1 Committee/Subcommittee hearing bill: Children, Families &  
 2 Seniors Subcommittee  
 3 Representative McBurney offered the following:  
 4

**Amendment (with title amendment)**

6 Between lines 46 and 47, insert:

7 Section 1. Subsections (1) through (7) of section  
 8 394.4655, F.S., are redesignated as subsections (2) through (8),  
 9 respectively, a new subsection (1) is added to that section,  
 10 and present paragraph (b) of subsection (3), present paragraph  
 11 (b) of subsection (6), and present paragraphs (a) and (c) of  
 12 subsection (7) of that section are amended, to read:

13 394.4655 Involuntary outpatient placement.—

14 (1) DEFINITION.—As used in this section, the term “court”  
 15 means a circuit court or a criminal county court. As used in  
 16 this subsection “criminal county court” means a county court

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17 exercising its original jurisdiction in a misdemeanor case under  
18 s. 34.01.

19 ~~(4)~~~~(3)~~ PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

20 (b) Each required criterion for involuntary outpatient  
21 placement must be alleged and substantiated in the petition for  
22 involuntary outpatient placement. A copy of the certificate  
23 recommending involuntary outpatient placement completed by a  
24 qualified professional specified in subsection (3) ~~(2)~~ must be  
25 attached to the petition. A copy of the proposed treatment plan  
26 must be attached to the petition. Before the petition is filed,  
27 the service provider shall certify that the services in the  
28 proposed treatment plan are available. If the necessary services  
29 are not available in the patient's local community to respond to  
30 the person's individual needs, the petition may not be filed.

31 (7)~~(6)~~ HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

32 (b)1. If the court concludes that the patient meets the  
33 criteria for involuntary outpatient placement pursuant to  
34 subsection (2) ~~(1)~~, the court shall issue an order for  
35 involuntary outpatient placement. The court order shall be for a  
36 period of up to 6 months. The order must specify the nature and  
37 extent of the patient's mental illness. The order of the court  
38 and the treatment plan shall be made part of the patient's  
39 clinical record. The service provider shall discharge a patient  
40 from involuntary outpatient placement when the order expires or  
41 any time the patient no longer meets the criteria for

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42 involuntary placement. Upon discharge, the service provider  
43 shall send a certificate of discharge to the court.

44 2. The court may not order the department or the service  
45 provider to provide services if the program or service is not  
46 available in the patient's local community, if there is no space  
47 available in the program or service for the patient, or if  
48 funding is not available for the program or service. A copy of  
49 the order must be sent to the Agency for Health Care  
50 Administration by the service provider within 1 working day  
51 after it is received from the court. After the placement order  
52 is issued, the service provider and the patient may modify  
53 provisions of the treatment plan. For any material modification  
54 of the treatment plan to which the patient or the patient's  
55 guardian advocate, if appointed, does agree, the service  
56 provider shall send notice of the modification to the court. Any  
57 material modifications of the treatment plan which are contested  
58 by the patient or the patient's guardian advocate, if appointed,  
59 must be approved or disapproved by the court consistent with  
60 subsection (3) ~~(2)~~.

61 3. If, in the clinical judgment of a physician, the  
62 patient has failed or has refused to comply with the treatment  
63 ordered by the court, and, in the clinical judgment of the  
64 physician, efforts were made to solicit compliance and the  
65 patient may meet the criteria for involuntary examination, a  
66 person may be brought to a receiving facility pursuant to s.  
67 394.463. If, after examination, the patient does not meet the

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68 criteria for involuntary inpatient placement pursuant to s.  
69 394.467, the patient must be discharged from the receiving  
70 facility. The involuntary outpatient placement order shall  
71 remain in effect unless the service provider determines that the  
72 patient no longer meets the criteria for involuntary outpatient  
73 placement or until the order expires. The service provider must  
74 determine whether modifications should be made to the existing  
75 treatment plan and must attempt to continue to engage the  
76 patient in treatment. For any material modification of the  
77 treatment plan to which the patient or the patient's guardian  
78 advocate, if appointed, does agree, the service provider shall  
79 send notice of the modification to the court. Any material  
80 modifications of the treatment plan which are contested by the  
81 patient or the patient's guardian advocate, if appointed, must  
82 be approved or disapproved by the court consistent with  
83 subsection (3) ~~(2)~~.

84 (8) ~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT  
85 PLACEMENT.—

86 (a)1. If the person continues to meet the criteria for  
87 involuntary outpatient placement, the service provider shall,  
88 before the expiration of the period during which the treatment  
89 is ordered for the person, file in the ~~circuit~~ court that issued  
90 the order for involuntary outpatient treatment a petition for  
91 continued involuntary outpatient placement.

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92           2. The existing involuntary outpatient placement order  
93 remains in effect until disposition on the petition for  
94 continued involuntary outpatient placement.

95           3. A certificate shall be attached to the petition which  
96 includes a statement from the person's physician or clinical  
97 psychologist justifying the request, a brief description of the  
98 patient's treatment during the time he or she was involuntarily  
99 placed, and an individualized plan of continued treatment.

100           4. The service provider shall develop the individualized  
101 plan of continued treatment in consultation with the patient or  
102 the patient's guardian advocate, if appointed. When the petition  
103 has been filed, the clerk of the court shall provide copies of  
104 the certificate and the individualized plan of continued  
105 treatment to the department, the patient, the patient's guardian  
106 advocate, the state attorney, and the patient's private counsel  
107 or the public defender.

108           (c) Hearings on petitions for continued involuntary  
109 outpatient placement shall be before the ~~circuit~~ court that  
110 issued the order for involuntary outpatient treatment. The court  
111 may appoint a master to preside at the hearing. The procedures  
112 for obtaining an order pursuant to this paragraph shall be in  
113 accordance with subsection (7) ~~(6)~~, except that the time period  
114 included in paragraph (2) (e) ~~(1) (e)~~ is not applicable in  
115 determining the appropriateness of additional periods of  
116 involuntary outpatient placement.

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117 Section 2. Paragraph (d) of subsection (2) of section  
118 394.4599, Florida Statutes, is amended to read:

119 394.4599 Notice.—

120 (2) INVOLUNTARY ADMISSION.—

121 (d) The written notice of the filing of the petition for  
122 involuntary placement of an individual being held must contain  
123 the following:

124 1. Notice that the petition for:

125 a. Involuntary inpatient treatment pursuant to s. 394.467  
126 has been filed with the circuit court in the county in which the  
127 individual is hospitalized and the address of such court; or

128 b. Involuntary outpatient treatment pursuant to s. 394.4655  
129 has been filed with the criminal county court or circuit court,  
130 as applicable, in the county in which the individual is  
131 hospitalized and the address of such court.

132 2. Notice that the office of the public defender has been  
133 appointed to represent the individual in the proceeding, if the  
134 individual is not otherwise represented by counsel.

135 3. The date, time, and place of the hearing and the name  
136 of each examining expert and every other person expected to  
137 testify in support of continued detention.

138 4. Notice that the individual, the individual's guardian,  
139 guardian advocate, health care surrogate or proxy, or  
140 representative, or the administrator may apply for a change of  
141 venue for the convenience of the parties or witnesses or because  
142 of the condition of the individual.

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143 5. Notice that the individual is entitled to an  
144 independent expert examination and, if the individual cannot  
145 afford such an examination, that the court will provide for one.

146 Section 3. Paragraphs (g) and (i) of subsection (2) of  
147 section 394.463, Florida Statutes, are amended to read:

148 394.463 Involuntary examination.—

149 (2) INVOLUNTARY EXAMINATION.—

150 (g) A person for whom an involuntary examination has been  
151 initiated who is being evaluated or treated at a hospital for an  
152 emergency medical condition specified in s. 395.002 must be  
153 examined by a receiving facility within 72 hours. The 72-hour  
154 period begins when the patient arrives at the hospital and  
155 ceases when the attending physician documents that the patient  
156 has an emergency medical condition. If the patient is examined  
157 at a hospital providing emergency medical services by a  
158 professional qualified to perform an involuntary examination and  
159 is found as a result of that examination not to meet the  
160 criteria for involuntary outpatient placement pursuant to  
161 394.4655(2) ~~s. 394.4655(1)~~ or involuntary inpatient placement  
162 pursuant to s. 394.467(1), the patient may be offered voluntary  
163 placement, if appropriate, or released directly from the  
164 hospital providing emergency medical services. The finding by  
165 the professional that the patient has been examined and does not  
166 meet the criteria for involuntary inpatient placement or  
167 involuntary outpatient placement must be entered into the  
168 patient's clinical record. Nothing in this paragraph is intended

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169 to prevent a hospital providing emergency medical services from  
170 appropriately transferring a patient to another hospital prior  
171 to stabilization, provided the requirements of s. 395.1041(3)(c)  
172 have been met.

173 (i) Within the 72-hour examination period or, if the 72  
174 hours ends on a weekend or holiday, no later than the next  
175 working day thereafter, one of the following actions must be  
176 taken, based on the individual needs of the patient:

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

180 2. The patient shall be released, subject to the  
181 provisions of subparagraph 1., for voluntary outpatient  
182 treatment;

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

187 4. A petition for involuntary placement shall be filed in  
188 the circuit court if when outpatient or inpatient treatment is  
189 deemed necessary or with the criminal county court, as defined  
190 in s. 394.4655(1), or circuit court as applicable, if outpatient  
191 treatment is deemed necessary. When inpatient treatment is  
192 deemed necessary, the least restrictive treatment consistent  
193 with the optimum improvement of the patient's condition shall be  
194 made available. When a petition is to be filed for involuntary



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195 outpatient placement, it shall be filed by one of the  
196 petitioners specified in s. 394.4655(4)(a) ~~s. 394.4655(3)(a)~~. A  
197 petition for involuntary inpatient placement shall be filed by  
198 the facility administrator.

199 Section 4. Subsection (34) of section 394.455, Florida  
200 Statutes, is amended to read:

201 394.455 Definitions.—As used in this part, unless the  
202 context clearly requires otherwise, the term:

203 (34) "Involuntary examination" means an examination  
204 performed under s. 394.463 to determine if an individual  
205 qualifies for involuntary inpatient treatment under s.  
206 394.467(1) or involuntary outpatient treatment under 394.4655(2)  
207 ~~s. 394.4655(1)~~.

208 Section 4. Subsection (3) of section 394.4615, Florida  
209 Statutes, is amended to read:

210 394.4615 Clinical records; confidentiality.—

211 (3) Information from the clinical record may be released  
212 in the following circumstances:

213 (a) When a patient has declared an intention to harm other  
214 persons. When such declaration has been made, the administrator  
215 may authorize the release of sufficient information to provide  
216 adequate warning to the person threatened with harm by the  
217 patient.

218 (b) When the administrator of the facility or secretary of  
219 the department deems release to a qualified researcher as  
220 defined in administrative rule, an aftercare treatment provider,

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221 or an employee or agent of the department is necessary for  
222 treatment of the patient, maintenance of adequate records,  
223 compilation of treatment data, aftercare planning, or evaluation  
224 of programs.

225  
226 For the purpose of determining whether a person meets the  
227 criteria for involuntary outpatient placement or for preparing  
228 the proposed treatment plan pursuant to s. 394.4655, the  
229 clinical record may be released to the state attorney, the  
230 public defender or the patient's private legal counsel, the  
231 court, and to the appropriate mental health professionals,  
232 including the service provider identified in s. 394.4655(7)(b)2.  
233 ~~s. 394.4655(6)(b)2.~~, in accordance with state and federal law.

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**T I T L E   A M E N D M E N T**

236

237 Remove line 3 and insert:

238

239 justice system; amending s. 394.4655, F.S.; defining the terms  
240 "court" and "criminal county court" for purposes of involuntary  
241 outpatient placement; conforming provisions to changes made by  
242 act; amending ss. 394.4599 and 394.463, F.S.; conforming  
243 provisions to changes made by act; conforming cross-references;  
244 amending s. 394.455 and 394.4615, F.S.; conforming cross-  
references; amending s. 394.47891, F.S.;