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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
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The Committee on Governmental Oversight and Accountability
(Bullard) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 397.6815, Florida Statutes, is amended
to read:

397.6815 Involuntary assessment and stabilization;
exemption; procedure.-

(1) Petitions for involuntary assessment and stabilization,
court orders, and related records filed with or by the court



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11 under this part are confidential and exempt from s. 119.07(1)
12 and s. 24(a), Art. I of the State Constitution.

13 (2) Personal identifying information in a docket held under
14 this part is confidential and exempt from s. 119.07(1) and s.
15 24(a), Art. I of the State Constitution.

16 (3) Petitions, court orders, related documents and personal
17 identifying information shall be released, in addition to the
18 persons identified in paragraph (4) (a):

19 (a) To appropriate persons if necessary to ensure the
20 continuity of the respondent's health care, upon approval by the
21 respondent, the respondent's guardian, or, in the case of a
22 minor, by the respondent's parent, guardian, legal custodian, or
23 guardian advocate.

24 (b) To an agency or individual who has obtained a court
25 order finding good cause for releasing the petition, order,
26 related records or personal identifying information. In
27 determining whether there is good cause for disclosure, the
28 court shall weigh the need for the information to be disclosed
29 against the possible harm of disclosure to the respondent.

30 (c) To the Department of Corrections, without charge, upon
31 request if the respondent is committed or is to be returned to
32 the custody of the Department of Corrections from the Department
33 of Children and Families.

34 (4) Upon receipt and filing of the petition for the
35 involuntary assessment and stabilization of a substance abuse
36 impaired person by the clerk of the court, the court shall
37 ascertain whether the respondent is represented by an attorney,
38 and if not, whether, on the basis of the petition, an attorney
39 should be appointed; and shall:



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40 (a)~~(1)~~ Provide a copy of the petition and notice of hearing
41 to the respondent; the respondent's parent, guardian, ~~or~~ legal
42 custodian, or guardian advocate, in the case of a minor; the
43 respondent's attorney, ~~if known~~; the petitioner; the
44 respondent's spouse or guardian, if applicable; and such other
45 persons as the court may direct pursuant to paragraph (3) (b),
46 and have such petition and notice personally delivered to the
47 respondent if he or she is a minor. The court shall also issue a
48 summons to the person whose admission is sought and conduct a
49 hearing within 10 days; or

50 (b)~~(2)~~ Without the appointment of an attorney and, relying
51 solely on the contents of the petition, enter an ex parte order
52 authorizing the involuntary assessment and stabilization of the
53 respondent. The court may order a law enforcement officer or
54 other designated agent of the court to take the respondent into
55 custody and deliver him or her to the nearest appropriate
56 licensed service provider.

57 (5) This exemption shall be given retroactive application.

58 Section 2. The Legislature finds that it is a public
59 necessity that petitions for involuntary assessment and
60 stabilization of a person impaired by substance abuse, court
61 orders, and related records which are filed with or by a court
62 pursuant to chapter 397, Florida Statutes, and personal
63 identifying information in a court docket held pursuant to
64 chapter 397, Florida Statutes, be confidential and exempt from
65 disclosure under s. 119.07(1), Florida Statutes, and s. 24(a),
66 Article I of the State Constitution. The personal health of an
67 individual and his or her actual or alleged impairment by
68 substance abuse are intensely private matters. The media have



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69 obtained Marchman Act records and have published details about
70 people's struggles with substance abuse on the Internet. The
71 content of such a record or personal identifying information
72 should not be made public merely because the record or personal
73 identifying information is filed with or by a court or placed on
74 a docket. Making these records and identifying information
75 confidential and exempt from disclosure will protect information
76 of a sensitive personal nature, the release of which could cause
77 unwarranted damage to the reputation of an individual, as well
78 as his or her family. Publication of personal identifying
79 information on a physical or virtual docket, even if no other
80 record were published, would defeat the purpose of the
81 protection afforded by this exemption because a record of an
82 individual's substance abuse proceedings would be available to
83 the public. Further, the knowledge that sensitive personal
84 information is subject to disclosure could have a chilling
85 effect on the willingness of individuals to seek and comply with
86 substance abuse treatment services.

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

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete everything before the enacting clause
92 and insert:

93 A bill to be entitled
94 An act relating to public records; amending s.
95 397.6815, F.S.; providing an exemption from public
96 records requirements for a petition for involuntary
97 assessment and stabilization of a substance abuse



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98 impaired person, court orders, and related records;
99 providing exceptions; providing retroactive
100 application; providing for future legislative review
101 and repeal of the exemption under the Open Government
102 Sunset Review Act; providing for release of a petition
103 to a guardian advocate; providing a statement of
104 public necessity; providing an effective date.