

By Senator Abruzzo

25-00545-16

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 397.6815, F.S.; providing an exemption from public
4 records requirements for a petition for involuntary
5 assessment and stabilization of a substance abuse
6 impaired person; providing exceptions; providing
7 retroactive application; providing for future
8 legislative review and repeal of the exemption under
9 the Open Government Sunset Review Act; providing for
10 release of a petition to a guardian advocate;
11 providing a statement of public necessity; providing
12 an effective date.

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

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

18 397.6815 Involuntary assessment and stabilization;
19 exemption; procedure.-

20 (1) A petition for involuntary assessment and stabilization
21 filed with the court under this part is confidential and exempt
22 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
23 and shall be released, in addition to the persons identified in
24 paragraph (2) (a):

25 (a) To appropriate persons if necessary to ensure the
26 continuity of the respondent's health care, upon approval by the
27 respondent, the respondent's guardian, or, in the case of a
28 minor, by the respondent's parent, guardian, legal custodian, or
29 guardian advocate.

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30 (b) Upon court order for good cause. In determining whether
31 there is good cause for disclosure, the court shall weigh the
32 need for the information to be disclosed against the possible
33 harm of disclosure to the respondent.

34 (c) To the Department of Corrections, without charge, upon
35 request if the respondent is committed or is to be returned to
36 the custody of the Department of Corrections from the Department
37 of Children and Families.

38
39 The exemption under this subsection applies to petitions filed
40 with a court before, on, or after July 1, 2016. This subsection
41 is subject to the Open Government Sunset Review Act in
42 accordance with s. 119.15 and shall stand repealed on October 2,
43 2021, unless reviewed and saved from repeal through reenactment
44 by the Legislature.

45 (2) Upon receipt and filing of the petition for the
46 involuntary assessment and stabilization of a substance abuse
47 impaired person by the clerk of the court, the court shall
48 ascertain whether the respondent is represented by an attorney,
49 and if not, whether, on the basis of the petition, an attorney
50 should be appointed; and shall:

51 (a) ~~(1)~~ Provide a copy of the petition and notice of hearing
52 to the respondent; the respondent's parent, guardian, ~~or~~ legal
53 custodian, or guardian advocate, in the case of a minor; the
54 respondent's attorney, ~~if known~~; the petitioner; the
55 respondent's spouse or guardian, if applicable; and such other
56 persons as the court may direct pursuant to paragraph (1) (b),
57 and have such petition and notice personally delivered to the
58 respondent if he or she is a minor. The court shall also issue a

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59 summons to the person whose admission is sought and conduct a
60 hearing within 10 days; or

61 (b)(2) Without the appointment of an attorney and, relying
62 solely on the contents of the petition, enter an ex parte order
63 authorizing the involuntary assessment and stabilization of the
64 respondent. The court may order a law enforcement officer or
65 other designated agent of the court to take the respondent into
66 custody and deliver him or her to the nearest appropriate
67 licensed service provider.

68 Section 2. The Legislature finds that it is a public
69 necessity that a petition for involuntary assessment and
70 stabilization of a person impaired by substance abuse which is
71 filed pursuant to chapter 397, Florida Statutes, be confidential
72 and exempt from disclosure under s. 119.07(1), Florida Statutes,
73 and s. 24(a), Article I of the State Constitution. The personal
74 health of an individual and his or her alleged impairment by
75 substance abuse are intensely private matters. The content of
76 such a petition should not be made public merely because the
77 petition is filed with the court. Protecting the petition is
78 necessary to ensure the health care privacy rights of all
79 individuals. Making these petitions confidential and exempt from
80 disclosure will protect information of a sensitive personal
81 nature, the release of which could cause unwarranted damage to
82 the reputation of an individual. Further, the knowledge that
83 sensitive personal information is subject to disclosure could
84 have a chilling effect on the willingness of individuals to seek
85 substance abuse treatment services.

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