

By the Committee on Governmental Oversight and Accountability;
and Senator Abruzzo

585-02888-16

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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, court orders, and related records,
7 and personal identifying information on certain court
8 dockets; providing exceptions; providing for release
9 of a petition to a guardian advocate; providing
10 retroactive application; providing a statement of
11 public necessity; providing 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) Petitions for involuntary assessment and stabilization,
21 court orders, and related records filed with or by the court
22 under this part are confidential and exempt from s. 119.07(1)
23 and s. 24(a), Art. I of the State Constitution.

24 (2) Personal identifying information on a docket held under
25 this part is confidential and exempt from s. 119.07(1) and s.
26 24(a), Art. I of the State Constitution.

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

30 (a) To appropriate persons if necessary to ensure the
31 continuity of the respondent's health care, upon approval by the

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32 respondent, the respondent's guardian, or, in the case of a
33 minor, by the respondent's parent, guardian, legal custodian, or
34 guardian advocate.

35 (b) To an agency or individual who has obtained a court
36 order finding good cause for releasing the petition, order,
37 related records or personal identifying information. In
38 determining whether there is good cause for disclosure, the
39 court shall weigh the need for the information to be disclosed
40 against the possible harm of disclosure to the respondent.

41 (c) To the Department of Corrections, without charge, upon
42 request if the respondent is committed or is to be returned to
43 the custody of the Department of Corrections from the Department
44 of Children and Families.

45 (4) 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 (3) (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
59 summons to the person whose admission is sought and conduct a
60 hearing within 10 days; or

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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 (5) This exemption shall be given retroactive application.

69 Section 2. The Legislature finds that it is a public
70 necessity that petitions for involuntary assessment and
71 stabilization of a person impaired by substance abuse, court
72 orders, and related records which are filed with or by a court
73 pursuant to chapter 397, Florida Statutes, and personal
74 identifying information on a court docket held pursuant to
75 chapter 397, Florida Statutes, be confidential and exempt from
76 disclosure under s. 119.07(1), Florida Statutes, and s. 24(a),
77 Article I of the State Constitution. The personal health of an
78 individual and his or her actual or alleged impairment by
79 substance abuse are intensely private matters. The media have
80 obtained Marchman Act records and have published details about
81 people's struggles with substance abuse on the Internet. The
82 content of such a record or personal identifying information
83 should not be made public merely because the record or personal
84 identifying information is filed with or by a court or placed on
85 a docket. Making these records and identifying information
86 confidential and exempt from disclosure will protect information
87 of a sensitive personal nature, the release of which could cause
88 unwarranted damage to the reputation of an individual, as well
89 as his or her family. Publication of personal identifying

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90 information on a physical or virtual docket, even if no other
91 record were published, would defeat the purpose of the
92 protection afforded by this exemption because a record of an
93 individual's substance abuse proceedings would be available to
94 the public. Further, the knowledge that sensitive personal
95 information is subject to disclosure could have a chilling
96 effect on the willingness of individuals to seek and comply with
97 substance abuse treatment services.

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