

By Senator Powell

30-01194-17

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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 petitions for involuntary
5 assessment and stabilization, court orders, related
6 records, and personal identifying information
7 regarding substance abuse impaired persons; providing
8 exceptions authorizing the release of such petitions,
9 orders, records, and identifying information to
10 certain persons and entities; providing for
11 retroactive application; providing a statement of
12 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; public
19 records exemption; procedure.—

20 (1) Petitions for involuntary assessment and stabilization,
21 court orders, and related records that are filed with or by a
22 court under this part are confidential and exempt from s.
23 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

28 (3) Notwithstanding paragraph (4) (a), such petitions,
29 orders, records, and identifying information shall be released

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30 upon request to:

31 (a) Any person responsible for ensuring the continuity of
32 the respondent's health care, upon approval by the respondent,
33 the respondent's guardian, or, in the case of a minor, the
34 respondent's parent, guardian, legal custodian, or guardian
35 advocate.

36 (b) Any agency or individual who has obtained a court order
37 finding good cause for releasing such petitions, orders,
38 records, or identifying information. In determining whether
39 there is good cause for disclosure, the court shall weigh the
40 need for disclosure against the possible harm of disclosure to
41 the respondent.

42 (c) The Department of Corrections, if the respondent is
43 committed to the department or scheduled to be returned to the
44 custody of the department from the custody of the Department of
45 Children and Families. When the Department of Corrections
46 requests such information, the service charge shall be waived.

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

53 (a) ~~(1)~~ Provide a copy of the petition and notice of hearing
54 to the respondent; the respondent's parent, guardian, ~~or~~ legal
55 custodian, or guardian advocate, in the case of a minor; the
56 respondent's attorney, ~~if known~~; the petitioner; the
57 respondent's spouse or guardian, if applicable; and such other
58 persons as the court may direct pursuant to paragraph (3) (b),

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59 and have such petition and notice personally delivered to the
60 respondent if he or she is a minor. The court shall also issue a
61 summons to the person whose admission is sought and conduct a
62 hearing within 10 days; or

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

70 (5) The exemption provided in subsection (1) applies
71 retroactively.

72 Section 2. The Legislature finds that it is a public
73 necessity that petitions for involuntary assessment and
74 stabilization and related court orders and records that are
75 filed with or by a court under part V of chapter 397, Florida
76 Statutes, and the personal identifying information of a
77 substance abuse impaired person which is published on a court
78 docket and maintained by the clerk of the court under part V of
79 chapter 397, Florida Statutes, be made confidential and exempt
80 from disclosure under s. 119.07(1), Florida Statutes, and s.
81 24(a), Article I of the State Constitution. A person's health
82 and sensitive, personal information regarding his or her actual
83 or alleged substance abuse impairment are intensely private
84 matters. The media have obtained, and published information
85 from, such records without the affected persons' consent. The
86 content of such records or personal identifying information
87 should not be made public merely because they are filed with or

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88 by a court or placed on a docket. Making such petitions, orders,
89 records, and identifying information confidential and exempt
90 from disclosure will protect such persons from the release of
91 sensitive, personal information which could damage their and
92 their families' reputations. The publication of personal
93 identifying information on a physical or virtual docket,
94 regardless of whether any other record is published, defeats the
95 purpose of protections otherwise provided. Further, the
96 knowledge that such sensitive, personal information is subject
97 to disclosure could have a chilling effect on a person's
98 willingness to seek out and comply with substance abuse
99 treatment services.

100 Section 3. This act shall take effect July 1, 2017.