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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2022	.	
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The Committee on Appropriations (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete lines 224 - 463
and insert:
contacts of a patient's whereabouts pursuant to s.
119.0712(2)(d). Any facility accepting the patient based on this
report must send a copy of the report to the department within 5
working days.

3. A physician, a physician assistant, a clinical
psychologist, a psychiatric nurse, an advanced practice



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11 registered nurse registered under s. 464.0123, a mental health
12 counselor, a marriage and family therapist, or a clinical social
13 worker may execute a certificate stating that he or she has
14 examined a person within the preceding 48 hours and finds that
15 the person appears to meet the criteria for involuntary
16 examination and stating the observations upon which that
17 conclusion is based. If other less restrictive means, such as
18 voluntary appearance for outpatient evaluation, are not
19 available, a law enforcement officer shall take into custody the
20 person named in the certificate and deliver him or her to the
21 appropriate, or nearest, facility within the designated
22 receiving system pursuant to s. 394.462 for involuntary
23 examination. The law enforcement officer shall execute a written
24 report detailing the circumstances under which the person was
25 taken into custody. The report must include all emergency
26 contact information for the person that is readily accessible to
27 the law enforcement officer, including information available
28 through electronic databases maintained by the Department of Law
29 Enforcement or by the Department of Highway Safety and Motor
30 Vehicles. Such emergency contact information may be used by a
31 receiving facility only for the purpose of informing listed
32 emergency contacts of a patient's whereabouts pursuant to s.
33 119.0712(2)(d). The report and certificate shall be made a part
34 of the patient's clinical record. Any facility accepting the
35 patient based on this certificate must send a copy of the
36 certificate to the department within 5 working days. The
37 document may be submitted electronically through existing data
38 systems, if applicable.

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40 When sending the order, report, or certificate to the
41 department, a facility shall, at a minimum, provide information
42 about which action was taken regarding the patient under
43 paragraph (g), which information shall also be made a part of
44 the patient's clinical record.

45 (e) The department shall receive and maintain the copies of
46 ex parte orders, involuntary outpatient services orders issued
47 pursuant to s. 394.4655, involuntary inpatient placement orders
48 issued pursuant to s. 394.467, professional certificates, ~~and~~
49 law enforcement officers' reports, and reports relating to the
50 transportation of patients. These documents shall be considered
51 part of the clinical record, governed by the provisions of s.
52 394.4615. These documents shall be used to prepare annual
53 reports analyzing the data obtained from these documents,
54 without information identifying patients, and shall provide
55 copies of reports to the department, the President of the
56 Senate, the Speaker of the House of Representatives, and the
57 minority leaders of the Senate and the House of Representatives.

58 (f) A patient shall be examined by a physician or a
59 clinical psychologist, or by a psychiatric nurse performing
60 within the framework of an established protocol with a
61 psychiatrist at a facility without unnecessary delay to
62 determine if the criteria for involuntary services are met.
63 Emergency treatment may be provided upon the order of a
64 physician if the physician determines that such treatment is
65 necessary for the safety of the patient or others. The patient
66 may not be released by the receiving facility or its contractor
67 without the documented approval of a psychiatrist or a clinical
68 psychologist or, if the receiving facility is owned or operated



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69 by a hospital, ~~or~~ health system, or nationally accredited
70 community mental health center, the release may also be approved
71 by a psychiatric nurse performing within the framework of an
72 established protocol with a psychiatrist, or an attending
73 emergency department physician with experience in the diagnosis
74 and treatment of mental illness after completion of an
75 involuntary examination pursuant to this subsection. A
76 psychiatric nurse may not approve the release of a patient if
77 the involuntary examination was initiated by a psychiatrist
78 unless the release is approved by the initiating psychiatrist.
79 The release may be approved through telehealth.

80 (g) The examination period must be for up to 72 hours. For
81 a minor, the examination shall be initiated within 12 hours
82 after the patient's arrival at the facility. Within the
83 examination period ~~or, if the examination period ends on a~~
84 ~~weekend or holiday, no later than the next working day~~
85 ~~thereafter,~~ one of the following actions must be taken, based on
86 the individual needs of the patient:

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

90 2. The patient shall be released, subject to subparagraph
91 1., for voluntary outpatient treatment;

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

96 4. A petition for involuntary services shall be filed in
97 the circuit court if inpatient treatment is deemed necessary or



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98 with the criminal county court, as defined in s. 394.4655(1), as
99 applicable. When inpatient treatment is deemed necessary, the
100 least restrictive treatment consistent with the optimum
101 improvement of the patient's condition shall be made available.
102 When a petition is to be filed for involuntary outpatient
103 placement, it shall be filed by one of the petitioners specified
104 in s. 394.4655(4) (a). A petition for involuntary inpatient
105 placement shall be filed by the facility administrator. If a
106 patient's 72-hour examination period ends on a weekend or
107 holiday, and the receiving facility:

108 a. Intends to file a petition for involuntary services,
109 such patient may be held at a receiving facility through the
110 next working day thereafter and such petition for involuntary
111 services must be filed no later than such date. If the receiving
112 facility fails to file a petition for involuntary services at
113 the close of the next working day, the patient shall be released
114 from the receiving facility following approval pursuant to
115 paragraph (f).

116 b. Does not intend to file a petition for involuntary
117 services, a receiving facility may postpone release of a patient
118 until the next working day thereafter only if a qualified
119 professional documents that adequate discharge planning and
120 procedures in accordance with s. 394.468, and approval pursuant
121 to paragraph (f), are not possible until the next working day.

122 (5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND
123 TREATMENT; PENALTIES.-

124 (a) A person may not knowingly and willfully:

125 1. Furnish false information for the purpose of obtaining
126 emergency or other involuntary admission of another;



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127 2. Cause or otherwise secure, or conspire with or assist
128 another to cause or secure, any emergency or other involuntary
129 procedure of another person under false pretenses; or

130 3. Cause, or conspire with or assist another to cause,
131 without lawful justification, the denial to any person of any
132 right accorded pursuant to this chapter.

133 (b) A person who violates this subsection commits a
134 misdemeanor of the first degree, punishable as provided in s.
135 775.082 and by a fine not exceeding \$5,000.

136 Section 6. Section 394.468, Florida Statutes, is amended to
137 read:

138 394.468 Admission and discharge procedures.—

139 (1) Admission and discharge procedures and treatment
140 policies of the department are governed solely by this part.
141 Such procedures and policies shall not be subject to control by
142 court procedure rules. The matters within the purview of this
143 part are deemed to be substantive, not procedural.

144 (2) Discharge planning and procedures for any patient's
145 release from a receiving facility or treatment facility must
146 include and document consideration of, at a minimum:

147 (a) Follow-up behavioral health appointments;

148 (b) Information on how to obtain prescribed medications;

149 and

150 (c) Information pertaining to:

151 1. Available living arrangements;

152 2. Transportation; and

153 3. Recovery support opportunities.

154 Section 7. Paragraph (c) of subsection (3) and subsection
155 (5) of section 394.9086, Florida Statutes, are amended, and



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156 paragraphs (d) and (e) are added to subsection (3) of that
157 section, to read:

158 394.9086 Commission on Mental Health and Substance Abuse.—

159 (3) MEMBERSHIP; TERM LIMITS; MEETINGS.—

160 (c) The commission shall convene no later than September 1,
161 2021. The commission shall meet quarterly or upon the call of
162 the chair. The commission may ~~shall~~ hold its meetings in person
163 at locations throughout the state or via teleconference or other
164 electronic means.

165 (d) Members of the commission are entitled to receive
166 reimbursement for per diem and travel expenses pursuant to s.
167 112.061.

168 (e) Notwithstanding any other law, the commission may
169 request and shall be provided with access to any information or
170 records, including exempt and confidential information or
171 records, which are necessary for the commission to carry out its
172 duties. Information or records obtained by the commission which
173 are otherwise exempt or confidential and exempt shall retain
174 such exempt or confidential and exempt status, and the
175 commission may not disclose such information or records.

176 (5) REPORTS.—By January 1, 2023 ~~September 1, 2022~~, the
177 commission shall submit an interim report to the President of
178 the Senate, the Speaker of the House of Representatives, and the
179 Governor containing its findings and recommendations on how to
180 best provide and facilitate mental health and substance abuse
181 services in the state. The commission shall submit its final
182 report to the President of the Senate, the Speaker of the House
183 of Representatives, and the Governor by September 1, 2023.

184 Section 8. Subsection (5) is added to section 397.601,



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185 Florida Statutes, to read:

186 397.601 Voluntary admissions.—

187 (5) A service provider must document that, within 24 hours
188 of admission, individuals admitted on a voluntary basis have
189 been provided with the option to authorize the release of
190 information from their clinical record to the individual's
191 health care surrogate or proxy, attorney, representative, or
192 other known emergency contact.

193 Section 9. Section 397.6772, Florida Statutes, is amended
194 to read:

195 397.6772 Protective custody without consent.—

196 (1) If a person in circumstances which justify protective
197 custody as described in s. 397.677 fails or refuses to consent
198 to assistance and a law enforcement officer has determined that
199 a hospital or a licensed detoxification or addictions receiving
200 facility is the most appropriate place for the person, the
201 officer may, after giving due consideration to the expressed
202 wishes of the person:

203 (a) Take the person to a hospital or to a licensed
204 detoxification or addictions receiving facility against the
205 person's will but without using unreasonable force. The officer
206 shall use the standard form developed by the department pursuant
207 to s. 397.321 to execute a written report detailing the
208 circumstances under which the person was taken into custody. The
209 report must include all emergency contact information for the
210 person that is readily accessible to the law enforcement
211 officer, including information available through electronic
212 databases maintained by the Department of Law Enforcement or by
213 the Department of Highway Safety and Motor Vehicles. Such



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214 emergency contact information may be used by a hospital or
215 licensed detoxification or addictions receiving facility only
216 for the purpose of informing listed emergency contacts of a
217 patient's whereabouts pursuant to s. 119.0712(2)(d). The written
218 report shall be included in the patient's clinical record; or

219 (b) In the case of an adult, detain the person for his or
220 her own protection in any municipal or county jail or other
221 appropriate detention facility.

222

223 Such detention is not to be considered an arrest for any
224 purpose, and no entry or other record may be made to indicate
225 that the person has been detained or charged with any crime. The
226 officer in charge of the detention facility must notify the
227 nearest appropriate licensed service provider within the first 8
228 hours after detention that the person has been detained. It is
229 the duty of the detention facility to arrange, as necessary, for
230 transportation of the person to an appropriate licensed service
231 provider with an available bed. Persons taken into protective
232 custody must be assessed by the attending physician within the
233 72-hour period and without unnecessary delay, to determine the
234 need for further services.

235 (2) The law enforcement officer must notify the nearest
236 relative of a minor in protective custody and ~~must be notified~~
237 ~~by the law enforcement officer,~~ as must notify the nearest
238 relative or other known emergency contact of an adult, unless
239 the adult requests that there be no notification. The law
240 enforcement officer must document such notification, and any
241 attempts at notification, in the written report detailing the
242 circumstances under which the person was taken into custody as



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243 required under paragraph (1) (a).

244 Section 10. Paragraph (d) of subsection (2) of section
245 119.0712, Florida Statutes, is amended to read:

246 119.0712 Executive branch agency-specific exemptions from
247 inspection or copying of public records.—

248 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

249 (d)1. Emergency contact information contained in a motor
250 vehicle record is confidential and exempt from s. 119.07(1) and
251 s. 24(a), Art. I of the State Constitution.

252 2. Without the express consent of the person to whom such
253 emergency contact information applies, the emergency contact
254 information contained in a motor vehicle record may be released
255 only to:

256 a. Law enforcement agencies for purposes of contacting
257 those listed in the event of an emergency.

258 b. A receiving facility, hospital, or licensed
259 detoxification or addictions receiving facility pursuant to ss.
260 394.463(2) (a) and 397.6772(1) (a) for the sole purpose of
261 informing a patient's emergency contacts of the patient's
262 whereabouts.

263 ===== T I T L E A M E N D M E N T =====

264 And the title is amended as follows:

265 Delete lines 3 - 31

266 and insert:

267 amending s. 119.0712, F.S.; authorizing emergency
268 contact information to be released to certain
269 entities; amending s. 394.455, F.S.; defining the term
270 "telehealth"; amending s. 394.459, F.S.; revising the
271 conditions under which a patient's communication with



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272 persons outside of a receiving facility may be
273 restricted; revising the conditions under which a
274 patient's sealed and unopened incoming or outgoing
275 correspondence may be restricted; revising the
276 conditions under which a patient's contact and
277 visitation with persons outside of a receiving
278 facility may be restricted; revising the frequency
279 with which the restriction on a patient's right to
280 receive visitors must be reviewed; amending s.
281 394.4599, F.S.; requiring a receiving facility to
282 notify specified emergency contacts of individuals who
283 are being involuntarily held for examination; amending
284 s. 394.4615, F.S.; requiring receiving facilities to
285 document that an option to authorize the release of
286 specified information has been provided, within a
287 specified timeframe, to individuals admitted on a
288 voluntary basis; amending s. 394.463, F.S.; requiring
289 that reports issued by law enforcement officers when
290 delivering a person to a receiving facility contain
291 certain information related to emergency contacts;
292 limiting the use of certain information provided;
293 requiring the Department of Children and Families to
294 receive and maintain reports relating to the
295 transportation of patients; revising a prohibition on
296 releasing a patient without certain documented
297 approval; authorizing receiving