

By the Committee on Children, Families, and Elder Affairs; and
Senator Bean

586-02593-22

20221844c1

1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 394.4625, F.S.; requiring the express and
4 informed consent of a minor's guardian for voluntary
5 admission of the minor to a receiving facility;
6 removing a requirement that a hearing be held to
7 verify the voluntariness of a minor's consent before
8 his or her admission to a facility; amending s.
9 394.463, F.S.; requiring law enforcement officers
10 transporting individuals for involuntary treatment to
11 take certain actions; creating s. 397.341, F.S.;
12 requiring law enforcement officers transporting
13 individuals for treatment to take certain actions;
14 providing an effective date.

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

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18 Section 1. Paragraph (a) of subsection (1) of section
19 394.4625, Florida Statutes, is amended to read:

20 394.4625 Voluntary admissions.—

21 (1) AUTHORITY TO RECEIVE PATIENTS.—

22 (a) A facility may receive for observation, diagnosis, or
23 treatment any person 18 years of age or older making application
24 to the facility by express and informed consent for admission or
25 any person ~~age 17~~ years of age or younger ~~under~~ for whom such
26 application is made by his or her guardian. If found to show
27 evidence of mental illness; ~~;~~ to be competent to provide express
28 and informed consent or, for a minor, the express and informed
29 consent of the minor's guardian; ~~;~~ and to be suitable for

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30 treatment, such person ~~18 years of age or older~~ may be admitted
31 to the facility. ~~A person age 17 or under may be admitted only~~
32 ~~after a hearing to verify the voluntariness of the consent.~~

33 Section 2. Paragraph (a) of subsection (2) of section
34 394.463, Florida Statutes, is amended to read:

35 394.463 Involuntary examination.—

36 (2) INVOLUNTARY EXAMINATION.—

37 (a) An involuntary examination may be initiated by any one
38 of the following means:

39 1. A circuit or county court may enter an ex parte order
40 stating that a person appears to meet the criteria for
41 involuntary examination and specifying the findings on which
42 that conclusion is based. The ex parte order for involuntary
43 examination must be based on written or oral sworn testimony
44 that includes specific facts that support the findings. If other
45 less restrictive means are not available, such as voluntary
46 appearance for outpatient evaluation, a law enforcement officer,
47 or other designated agent of the court, shall take the person
48 into custody and deliver him or her to an appropriate, or the
49 nearest, facility within the designated receiving system
50 pursuant to s. 394.462 for involuntary examination. The order of
51 the court shall be made a part of the patient's clinical record.
52 A fee may not be charged for the filing of an order under this
53 subsection. A facility accepting the patient based on this order
54 must send a copy of the order to the department within 5 working
55 days. The order may be submitted electronically through existing
56 data systems, if available. The order shall be valid only until
57 the person is delivered to the facility or for the period
58 specified in the order itself, whichever comes first. If a time

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59 limit is not specified in the order, the order is valid for 7
60 days after the date that the order was signed.

61 2. A law enforcement officer may ~~shall~~ take a person who
62 appears to meet the criteria for involuntary examination into
63 custody and deliver the person or have him or her delivered to
64 an appropriate, or the nearest, facility within the designated
65 receiving system pursuant to s. 394.462 for examination. A law
66 enforcement officer transporting a person pursuant to this
67 subparagraph shall consider the person's mental and behavioral
68 state and restrain him or her in the least restrictive manner
69 necessary under the circumstances, especially if the person is a
70 minor. The officer shall execute a written report detailing the
71 circumstances under which the person was taken into custody,
72 which must be made a part of the patient's clinical record. Any
73 facility accepting the patient based on this report must send a
74 copy of the report to the department within 5 working days.

75 3. A physician, a physician assistant, a clinical
76 psychologist, a psychiatric nurse, an advanced practice
77 registered nurse registered under s. 464.0123, a mental health
78 counselor, a marriage and family therapist, or a clinical social
79 worker may execute a certificate stating that he or she has
80 examined a person within the preceding 48 hours and finds that
81 the person appears to meet the criteria for involuntary
82 examination and stating the observations upon which that
83 conclusion is based. If other less restrictive means, such as
84 voluntary appearance for outpatient evaluation, are not
85 available, a law enforcement officer shall take into custody the
86 person named in the certificate and deliver him or her to the
87 appropriate, or nearest, facility within the designated

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88 receiving system pursuant to s. 394.462 for involuntary
89 examination. The law enforcement officer shall execute a written
90 report detailing the circumstances under which the person was
91 taken into custody. The report and certificate shall be made a
92 part of the patient's clinical record. Any facility accepting
93 the patient based on this certificate must send a copy of the
94 certificate to the department within 5 working days. The
95 document may be submitted electronically through existing data
96 systems, if applicable.

97
98 When sending the order, report, or certificate to the
99 department, a facility shall, at a minimum, provide information
100 about which action was taken regarding the patient under
101 paragraph (g), which information shall also be made a part of
102 the patient's clinical record.

103 Section 3. Section 397.341, Florida Statutes, is created to
104 read:

105 397.341 Transportation of individuals by law enforcement
106 officers.—A law enforcement officer transporting an individual
107 pursuant to this chapter shall consider the person's mental and
108 behavioral state and restrain him or her in the least
109 restrictive manner necessary under the circumstances, especially
110 if the individual is a minor.

111 Section 4. This act shall take effect July 1, 2022.