

By Senator Altman

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1 A bill to be entitled
2 An act relating to mental health; amending s. 394.463,
3 F.S.; revising criteria for involuntary examination;
4 specifying who may submit a petition for an ex parte
5 order for involuntary examination; deleting a
6 requirement that a less restrictive means be
7 unavailable before a law enforcement officer may take
8 a person into custody for an involuntary examination;
9 providing a requirement for a report; revising
10 discharge requirements if a person no longer meets the
11 criteria for involuntary admission; amending s.
12 394.469, F.S.; specifying when an involuntary patient
13 is eligible for discharge; revising discharge
14 requirements for involuntary patients; amending s.
15 394.4625, F.S.; providing additional discharge
16 requirements for voluntary patients; providing an
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Paragraph (b) of subsection (1) and paragraphs
22 (a), (e), (g), and (h) of subsection (2) of section 394.463,
23 Florida Statutes, are amended to read:

24 394.463 Involuntary examination.—

25 (1) CRITERIA.—A person may be taken to a receiving facility
26 for involuntary examination if there is reason to believe that
27 the person has a mental illness and because of his or her mental
28 illness:

29 (b)1. Without care or treatment, the person is likely to

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30 suffer from neglect or refuse to care for himself or herself
31 ~~and~~ such neglect or refusal poses a real and present threat of
32 substantial harm to his or her well-being; ~~and it is not~~
33 ~~apparent that such harm may be avoided through the help of~~
34 ~~willing family members or friends or the provision of other~~
35 ~~services;~~ or

36 2. There is a substantial likelihood that without care or
37 treatment the person will cause serious bodily harm to himself
38 or herself or others in the near future, as evidenced by recent
39 behavior or a pattern of past behaviors causing, attempting, or
40 threatening such harm.

41 (2) INVOLUNTARY EXAMINATION.—

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

44 1. A court may enter an ex parte order stating that a
45 person appears to meet the criteria for involuntary examination,
46 giving the findings on which that conclusion is based. The ex
47 parte order for involuntary examination must be based on sworn
48 testimony, written or oral. A representative of the department,
49 a certified mental health case manager, a legal guardian, or an
50 attorney may submit a petition for an ex parte order
51 electronically to the court. ~~If other less restrictive means are~~
52 ~~not available, such as voluntary appearance for outpatient~~
53 ~~evaluation,~~ A law enforcement officer, or other designated agent
54 of the court, shall take the person into custody and deliver him
55 or her to the nearest receiving facility for involuntary
56 examination. The order of the court shall be made a part of the
57 patient's clinical record. No fee shall be charged for the
58 filing of an order under this subsection. Any receiving facility

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59 accepting the patient based on this order must send a copy of
60 the order to the Agency for Health Care Administration on the
61 next working day. The order shall be valid only until executed
62 or, if not executed, for the period specified in the order
63 itself. If no time limit is specified in the order, the order
64 shall be valid for 7 days after the date that the order was
65 signed.

66 2. A law enforcement officer shall take a person who
67 appears to meet the criteria for involuntary examination into
68 custody and deliver the person or have him or her delivered to
69 the nearest receiving facility for examination. The officer
70 shall execute a written report detailing the circumstances under
71 which the person was taken into custody, and the report shall be
72 made a part of the patient's clinical record. Any receiving
73 facility accepting the patient based on this report must send a
74 copy of the report to the Agency for Health Care Administration
75 on the next working day.

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

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88 the circumstances under which the person was taken into custody.
89 The report and certificate shall be made a part of the patient's
90 clinical record. Any receiving facility accepting the patient
91 based on this certificate must send a copy of the certificate to
92 the Agency for Health Care Administration on the next working
93 day.

94 (e) The Agency for Health Care Administration shall receive
95 and maintain the copies of ex parte orders, involuntary
96 outpatient placement orders issued pursuant to s. 394.4655,
97 involuntary inpatient placement orders issued pursuant to s.
98 394.467, professional certificates, and law enforcement
99 officers' reports. These documents shall be considered part of
100 the clinical record, governed by ~~the provisions of~~ s. 394.4615.
101 The agency shall prepare annual reports analyzing the data
102 obtained from these documents, without information identifying
103 patients, and shall provide copies of reports to the department,
104 the President of the Senate, the Speaker of the House of
105 Representatives, and the minority leaders of the Senate and the
106 House of Representatives. Each such report shall include the
107 type of living arrangement the person was residing in at the
108 time of intervention.

109 (g) A person for whom an involuntary examination has been
110 initiated who is being evaluated or treated at a hospital for an
111 emergency medical condition specified in s. 395.002 must be
112 examined by a receiving facility within 72 hours. The 72-hour
113 period begins when the patient arrives at the hospital and
114 ceases when the attending physician documents that the patient
115 has an emergency medical condition. If a physician working in a
116 hospital that provides emergency medical services believes that

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117 the patient no longer meets the criteria for involuntary
118 admission to the hospital, the physician may discharge the
119 patient to an appropriate setting that is able to meet the
120 patient's clinical needs and reduce the potential for
121 incarceration, homelessness, or readmission. The physician shall
122 determine the appropriate location for discharge if, in the
123 judgment of the physician, the patient no longer meets criteria
124 for involuntary admission to the hospital ~~If the patient is~~
125 ~~examined at a hospital providing emergency medical services by a~~
126 ~~professional qualified to perform an involuntary examination and~~
127 ~~is found as a result of that examination not to meet the~~
128 ~~criteria for involuntary outpatient placement pursuant to s.~~
129 ~~394.4655(1) or involuntary inpatient placement pursuant to s.~~
130 ~~394.467(1), the patient may be offered voluntary placement, if~~
131 ~~appropriate, or released directly from the hospital providing~~
132 ~~emergency medical services. The finding by the professional that~~
133 ~~the patient has been examined and does not meet the criteria for~~
134 ~~involuntary inpatient placement or involuntary outpatient~~
135 ~~placement must be entered into the patient's clinical record.~~
136 ~~Nothing in~~ This paragraph does not ~~is intended to~~ prevent a
137 hospital that provides ~~providing~~ emergency medical services from
138 appropriately transferring a patient to another hospital before
139 ~~prior to~~ stabilization, provided the requirements of s.
140 395.1041(3) (c) have been met.

141 (h) One of the following must occur within 12 hours after
142 the patient's attending physician documents that the patient's
143 medical condition has stabilized or that an emergency medical
144 condition does not exist:

145 1. The patient must be examined by a designated receiving

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146 facility and released to an appropriate setting or location that
147 is able to meet the needs of the patient; or

148 2. The patient must be transferred to a designated
149 receiving facility in which appropriate medical treatment is
150 available. However, the receiving facility must be notified of
151 the transfer within 2 hours after the patient's condition has
152 been stabilized or after determination that an emergency medical
153 condition does not exist.

154 Section 2. Section 394.469, Florida Statutes, is amended to
155 read:

156 394.469 Discharge of involuntary patients.-

157 (1) POWER TO DISCHARGE.-If at any time after the 72-hour
158 observation period has been completed a patient is found to no
159 longer meet the criteria for involuntary placement, the
160 administrator shall:

161 (a) Discharge the patient to a setting that is able to meet
162 the patient's clinical needs and would likely reduce the
163 potential for readmission, incarceration, or homelessness,
164 unless the patient is under a criminal charge, in which case the
165 patient shall be transferred to the custody of the appropriate
166 law enforcement officer;

167 (b) Transfer the patient to voluntary status on his or her
168 own authority or at the patient's request, unless the patient is
169 under criminal charge or adjudicated incapacitated; or

170 (c) Place an improved patient, except a patient under a
171 criminal charge, on convalescent status in the care of a
172 community facility.

173 (2) NOTICE.-Notice of discharge or transfer of a patient
174 shall be given as provided in s. 394.4599.

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175 Section 3. Paragraph (c) is added to subsection (2) of
176 section 394.4625, Florida Statutes, to read:

177 394.4625 Voluntary admissions.—

178 (2) DISCHARGE OF VOLUNTARY PATIENTS.—

179 (c) A patient who is being discharged must be discharged to
180 a location or setting that is able to meet the patient's
181 clinical needs in order to meet the goal of preventing
182 readmission, incarceration, or homelessness. Placement in a
183 homeless shelter or release without appropriate shelter does not
184 meet the requirements of this paragraph.

185 Section 4. This act shall take effect July 1, 2013.