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LEGISLATIVE ACTION

Senate

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House

The Committee on Children, Families, and Elder Affairs (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

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



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11 1. A circuit or county court may enter an ex parte order
12 stating that a person appears to meet the criteria for
13 involuntary examination and specifying the findings on which
14 that conclusion is based. The ex parte order for involuntary
15 examination must be based on written or oral sworn testimony
16 that includes specific facts that support the findings. If other
17 less restrictive means are not available, such as voluntary
18 appearance for outpatient evaluation, a law enforcement officer,
19 or other designated agent of the court, shall take the person
20 into custody and deliver him or her to an appropriate, or the
21 nearest, facility within the designated receiving system
22 pursuant to s. 394.462 for involuntary examination. The order of
23 the court shall be made a part of the patient's clinical record.
24 A fee may not be charged for the filing of an order under this
25 subsection. A facility accepting the patient based on this order
26 must send a copy of the order to the department within 5 working
27 days. The order may be submitted electronically through existing
28 data systems, if available. The order shall be valid only until
29 the person is delivered to the facility or for the period
30 specified in the order itself, whichever comes first. If a time
31 limit is not specified in the order, the order is valid for 7
32 days after the date that the order was signed.

33 2. A law enforcement officer may ~~shall~~ take a person who
34 appears to meet the criteria for involuntary examination into
35 custody and deliver the person or have him or her delivered to
36 an appropriate, or the nearest, facility within the designated
37 receiving system pursuant to s. 394.462 for examination. A law
38 enforcement officer transporting a person pursuant to this
39 subparagraph shall consider the person's mental and behavioral



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40 state and restrain him or her in the least restrictive manner
41 necessary under the circumstances, especially if the person is a
42 minor. The officer shall execute a written report detailing the
43 circumstances under which the person was taken into custody,
44 which must be made a part of the patient's clinical record. Any
45 facility accepting the patient based on this report must send a
46 copy of the report to the department within 5 working days.

47 3. A physician, a physician assistant, a clinical
48 psychologist, a psychiatric nurse, an advanced practice
49 registered nurse registered under s. 464.0123, a mental health
50 counselor, a marriage and family therapist, or a clinical social
51 worker may execute a certificate stating that he or she has
52 examined a person within the preceding 48 hours and finds that
53 the person appears to meet the criteria for involuntary
54 examination and stating the observations upon which that
55 conclusion is based. If other less restrictive means, such as
56 voluntary appearance for outpatient evaluation, are not
57 available, a law enforcement officer shall take into custody the
58 person named in the certificate and deliver him or her to the
59 appropriate, or nearest, facility within the designated
60 receiving system pursuant to s. 394.462 for involuntary
61 examination. The law enforcement officer shall execute a written
62 report detailing the circumstances under which the person was
63 taken into custody. The report and certificate shall be made a
64 part of the patient's clinical record. Any facility accepting
65 the patient based on this certificate must send a copy of the
66 certificate to the department within 5 working days. The
67 document may be submitted electronically through existing data
68 systems, if applicable.



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70 When sending the order, report, or certificate to the
71 department, a facility shall, at a minimum, provide information
72 about which action was taken regarding the patient under
73 paragraph (g), which information shall also be made a part of
74 the patient's clinical record.

75 Section 2. Paragraph (a) of subsection (6) of section
76 394.467, Florida Statutes, is amended to read:

77 394.467 Involuntary inpatient placement.—

78 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

79 (a)1. The court shall hold the hearing on involuntary
80 inpatient placement within 5 court working days, unless a
81 continuance is granted.

82 2. Except for good cause documented in the court file, the
83 hearing must be held in the county or the facility, as
84 appropriate, where the patient is located, must be as convenient
85 to the patient as is consistent with orderly procedure, and
86 shall be conducted in physical settings not likely to be
87 injurious to the patient's condition. The respondent must be
88 present at the hearing, in person or remotely through audio-
89 video teleconference. If the court finds that the patient's
90 attendance at the hearing is not consistent with the best
91 interests of, or is likely to be injurious to, the patient, or
92 the patient knowingly, intelligently, and voluntarily waives his
93 or her right to be present, and the patient's counsel does not
94 object, the court may waive the presence of the patient from all
95 or any portion of the hearing. Absent a showing of good cause,
96 such as specific symptoms of the patient's condition, the court
97 may permit the patient and all witnesses, including, but not



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98 limited to, any medical professionals or personnel who are or
99 have been involved with the patient's treatment, to remotely
100 attend and testify at the hearing under oath through audio-video
101 teleconference. Any witness intending to remotely attend and
102 testify at the hearing must provide the parties with all
103 relevant documents by the close of business on the day before
104 the hearing. The state attorney for the circuit in which the
105 patient is located shall represent the state, rather than the
106 petitioning facility administrator, as the real party in
107 interest in the proceeding.

108 3. The court may appoint a magistrate to preside at the
109 hearing. One of the professionals who executed the petition for
110 involuntary inpatient placement certificate shall be a witness.
111 The patient and the patient's guardian or representative shall
112 be informed by the court of the right to an independent expert
113 examination. If the patient cannot afford such an examination,
114 the court shall ensure that one is provided, as otherwise
115 provided for by law. The independent expert's report is
116 confidential and not discoverable, unless the expert is to be
117 called as a witness for the patient at the hearing. The
118 testimony in the hearing must be given under oath, and the
119 proceedings must be recorded. The patient may refuse to testify
120 at the hearing.

121 Section 3. Section 397.341, Florida Statutes, is created to
122 read:

123 397.341 Transportation of individuals by law enforcement
124 officers.—A law enforcement officer transporting an individual
125 pursuant to this chapter shall consider the person's mental and
126 behavioral state and restrain him or her in the least



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127 restrictive manner necessary under the circumstances, especially
128 if the individual is a minor.

129 Section 4. Section 397.6818, Florida Statutes, is amended
130 to read:

131 397.6818 Court determination.—The respondent must be
132 present, in person or remotely through audio-video
133 teleconference, at the hearing initiated in accordance with s.
134 397.6811(1), unless he or she knowingly, intelligently, and
135 voluntarily waives his or her right to be present or upon
136 receiving proof of service and evaluating the circumstances of
137 the case, the court finds that his or her presence is
138 inconsistent with his or her best interest or is likely to be
139 injurious to himself or herself or others, in which event the
140 court must appoint a guardian advocate to act on behalf of the
141 respondent throughout the proceedings. The court shall hear all
142 relevant testimony, including testimony from individuals such as
143 family members familiar with the respondent's prior history and
144 how it relates to his or her current condition. ~~The respondent~~
145 ~~must be present unless the court has reason to believe that his~~
146 ~~or her presence is likely to be injurious to him or her, in~~
147 ~~which event the court shall appoint a guardian advocate to~~
148 ~~represent the respondent. Absent a showing of good cause, such~~
149 ~~as specific symptoms of the respondent's condition, the court~~
150 ~~may permit the patient and all witnesses, such as any medical~~
151 ~~professionals or personnel who are or have been involved with~~
152 ~~the respondent's treatment, to remotely attend and testify at~~
153 ~~the hearing under oath through audio-video teleconference. Any~~
154 ~~witness intending to remotely attend and testify at the hearing~~
155 ~~must provide the parties with all relevant documents by the~~



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156 close of business on the day before the hearing. The respondent
157 has the right to examination by a court-appointed qualified
158 professional. After hearing all the evidence, the court shall
159 determine whether there is a reasonable basis to believe the
160 respondent meets the involuntary admission criteria of s.
161 397.675.

162 Section 5. Subsection (1) of section 397.6957, Florida
163 Statutes, is amended to read:

164 397.6957 Hearing on petition for involuntary services.—

165 (1) The respondent must be present, in person or remotely
166 through audio-video teleconference, at a hearing on a petition
167 for involuntary services unless he or she knowingly,
168 intelligently, and voluntarily waives his or her right to be
169 present or upon receiving proof of service and evaluating the
170 circumstances of the case, the court finds that his or her
171 presence is inconsistent with his or her best interest or is
172 likely to be injurious to himself or herself or others, in which
173 event the court must appoint a guardian advocate to act on
174 behalf of the respondent throughout the proceedings. The court
175 shall hear and review all relevant evidence, including testimony
176 from individuals such as family members familiar with the
177 respondent's prior history and how it relates to his or her
178 current condition, and the ~~review of~~ results of the assessment
179 completed by the qualified professional in connection with the
180 respondent's protective custody, emergency admission,
181 involuntary assessment, or alternative involuntary admission.
182 Absent a showing of good cause, such as specific symptoms of the
183 respondent's condition, the court may permit the patient and all
184 witnesses, such as any medical professionals or personnel who



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185 are or have been involved with the respondent's treatment, to
186 remotely attend and testify at the hearing under oath through
187 audio-video teleconference. Any witness intending to remotely
188 attend and testify at the hearing must provide the parties with
189 all relevant documents by the close of business on the day
190 before the hearing. ~~The respondent must be present unless the~~
191 ~~court finds that his or her presence is likely to be injurious~~
192 ~~to himself or herself or others, in which event the court must~~
193 ~~appoint a guardian advocate to act in behalf of the respondent~~
194 ~~throughout the proceedings.~~

195 Section 6. This act shall take effect July 1, 2022.

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

197 And the title is amended as follows:

198 Delete everything before the enacting clause
199 and insert:

200 A bill to be entitled
201 An act relating to mental health and substance abuse;
202 amending s. 394.463; requiring law enforcement
203 officers transporting individuals for involuntary
204 treatment to take certain actions; amending s.
205 394.467; revising the conditions under which a court
206 may waive the requirement for a patient to be present
207 at an involuntary inpatient placement hearing;
208 authorizing the court to permit the patient and all
209 witnesses to attend and testify remotely at the
210 hearing through certain means; creating s. 397.341;
211 requiring law enforcement officers transporting
212 individuals for treatment to take certain actions;
213 amending s. 397.6818; revising the conditions under



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214 which a court may waive the requirement for a patient
215 to be present at an involuntary assessment and
216 stabilization hearing; authorizing the court to permit
217 the patient and all witnesses to remotely attend and
218 testify at the hearing through certain means; amending
219 s. 397.6957; revising the conditions under which a
220 court may waive the requirement for a patient to be
221 present at an involuntary services hearing;
222 authorizing the court to permit the patient and all
223 witnesses to remotely attend and testify at the
224 hearing through certain means; providing an effective
225 date.