

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 deleting a requirement that a less restrictive means
 5 be unavailable before a law enforcement officer may
 6 take a person into custody for an involuntary
 7 examination; deleting a requirement that an
 8 involuntary examination order become a part of a
 9 patient's clinical record; deleting a prohibition on a
 10 fee for filing for such an order; providing
 11 requirements for a report; revising discharge
 12 requirements if a patient no longer meets the criteria
 13 for involuntary admission; amending s. 394.469, F.S.;
 14 revising discharge requirements for involuntary
 15 patients; requiring rulemaking; amending s. 394.4625,
 16 F.S.; providing additional discharge requirements for
 17 voluntary patients; providing an effective date.

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 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
 26 facility for involuntary examination if there is reason to
 27 believe that the person has a mental illness and because of his
 28 or her mental illness:

29 (b)1. Without care or treatment, the person is likely to
 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 recent pattern of past behaviors causing,
 40 attempting, or 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. ~~If other less restrictive means are~~
 49 ~~not available, such as voluntary appearance for outpatient~~
 50 ~~evaluation,~~ A law enforcement officer, or other designated agent
 51 of the court, shall take the person into custody and deliver him
 52 or her to the nearest receiving facility for involuntary
 53 examination. ~~The order of the court shall be made a part of the~~
 54 ~~patient's clinical record. No fee shall be charged for the~~
 55 ~~filing of an order under this subsection.~~ Any receiving facility
 56 accepting the patient based on this order must send a copy of

HB 1277

2013

57 | the order to the Agency for Health Care Administration on the
58 | next working day. The order shall be valid only until executed
59 | or, if not executed, for the period specified in the order
60 | itself. If no time limit is specified in the order, the order
61 | shall be valid for 7 days after the date that the order was
62 | signed.

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

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

HB 1277

2013

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

91 | (e) The Agency for Health Care Administration shall
92 | receive and maintain the copies of ex parte orders, involuntary
93 | outpatient placement orders issued pursuant to s. 394.4655,
94 | involuntary inpatient placement orders issued pursuant to s.
95 | 394.467, professional certificates, and law enforcement
96 | officers' reports. These documents shall be considered part of
97 | the clinical record, governed by ~~the provisions of~~ s. 394.4615.
98 | The agency shall prepare annual reports analyzing the data
99 | obtained from these documents, without information identifying
100 | patients, and shall provide copies of reports to the department,
101 | the President of the Senate, the Speaker of the House of
102 | Representatives, and the minority leaders of the Senate and the
103 | House of Representatives. Each such report shall include the
104 | type of living arrangement the person was residing in at the
105 | time of intervention and the number of involuntary examinations
106 | conducted in hospitals, crisis stabilization units, and hospital
107 | emergency rooms where the person was found not to meet the
108 | criteria for involuntary placement before the 72-hour period
109 | elapsed.

110 | (g) A person for whom an involuntary examination has been
111 | initiated who is being evaluated or treated at a hospital for an
112 | emergency medical condition specified in s. 395.002 must be

HB 1277

2013

113 examined by a receiving facility within 72 hours. The 72-hour
114 period begins when the patient arrives at the hospital and
115 ceases when the attending physician documents that the patient
116 has an emergency medical condition. If a physician working in a
117 hospital that provides emergency medical services believes that
118 the patient no longer meets the criteria for involuntary
119 admission to the hospital, the physician may discharge the
120 patient to an appropriate setting. The hospital or receiving
121 facility is responsible for ensuring appropriate placement upon
122 discharge. Placement in a homeless shelter is not considered an
123 appropriate placement under this paragraph ~~If the patient is~~
124 ~~examined at a hospital providing emergency medical services by a~~
125 ~~professional qualified to perform an involuntary examination and~~
126 ~~is found as a result of that examination not to meet the~~
127 ~~criteria for involuntary outpatient placement pursuant to s.~~
128 ~~394.4655(1) or involuntary inpatient placement pursuant to s.~~
129 ~~394.467(1), the patient may be offered voluntary placement, if~~
130 ~~appropriate, or released directly from the hospital providing~~
131 ~~emergency medical services. The finding by the professional that~~
132 ~~the patient has been examined and does not meet the criteria for~~
133 ~~involuntary inpatient placement or involuntary outpatient~~
134 ~~placement must be entered into the patient's clinical record.~~
135 ~~Nothing in~~ This paragraph does not ~~is intended to~~ prevent a
136 hospital that provides ~~providing~~ emergency medical services from
137 appropriately transferring a patient to another hospital before
138 ~~prior to~~ stabilization, provided the requirements of s.
139 395.1041(3) (c) have been met.

140 (h) One of the following must occur within 12 hours after

HB 1277

2013

141 the patient's attending physician documents that the patient's
142 medical condition has stabilized or that an emergency medical
143 condition does not exist:

144 1. The patient must be examined by a designated receiving
145 facility and released to an appropriate setting or location that
146 is able to meet the needs of the patient; or

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

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

155 394.469 Discharge of involuntary patients.—

156 (1) POWER TO DISCHARGE.—~~If~~ at any time a patient is found
157 to no longer meet the criteria for involuntary placement, the
158 administrator shall:

159 (a) Discharge the patient to a setting that is able to
160 meet the patient's clinical needs and would likely reduce the
161 potential for readmission, incarceration, or homelessness,
162 unless the patient is under a criminal charge, in which case the
163 patient shall be transferred to the custody of the appropriate
164 law enforcement officer. Placement in a homeless shelter does
165 not meet the requirements of this paragraph;

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

HB 1277

2013

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

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

174 (3) RULEMAKING.—The department shall adopt rules to
175 implement this section that address discharge planning
176 requirements for patients with the goal of reductions in
177 readmissions, incarcerations, and homelessness.

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

180 394.4625 Voluntary admissions.—

181 (2) DISCHARGE OF VOLUNTARY PATIENTS.—

182 (c) A patient who is being discharged must be discharged
183 to a location or setting that is able to meet the patient's
184 clinical needs in order to meet the goal of preventing
185 readmission, incarceration, or homelessness. Placement in a
186 homeless shelter does not meet the requirements of this
187 paragraph.

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