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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 04/07/2015 | . | |
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The Committee on Judiciary (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1356 - 1404

and insert:

~~registered or certified~~ mail with the date, time, and method of
notice delivery documented in receipts attached to the patient's
clinical record. Hand delivery by a facility employee may be
used as an alternative, with the date and time of delivery
documented in the clinical record. If notice is given by a state
attorney or an attorney for the department, a certificate of
service is ~~shall be~~ sufficient to document service.



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12 (b) A receiving facility shall give prompt notice of the
13 whereabouts of an individual ~~a patient~~ who is being
14 involuntarily held for examination to the individual's guardian,
15 guardian advocate, health care surrogate or proxy, attorney or
16 representative, by telephone or in person within 24 hours after
17 the individual's ~~patient's~~ arrival at the facility, ~~unless the~~
18 ~~patient requests that no notification be made.~~ Contact attempts
19 shall be documented in the individual's ~~patient's~~ clinical
20 record and shall begin as soon as reasonably possible after the
21 individual's ~~patient's~~ arrival. ~~Notice that a patient is being~~
22 ~~admitted as an involuntary patient shall be given to the Florida~~
23 ~~local advocacy council no later than the next working day after~~
24 ~~the patient is admitted.~~

25 (c)1. A receiving facility shall give notice of the
26 whereabouts of a minor who is being involuntarily held for
27 examination pursuant to s. 394.463 to the minor's parent,
28 guardian, caregiver, or guardian advocate, in person or by
29 telephone or other form of electronic communication, immediately
30 after the minor's arrival at the facility. The facility may
31 delay notification for no more than 24 hours after the minor's
32 arrival if the facility has submitted a report to the central
33 abuse hotline, pursuant to s. 39.201, based upon knowledge or
34 suspicion of abuse, abandonment, or neglect and if the facility
35 deems a delay in notification to be in the minor's best
36 interest.

37 2. The receiving facility shall attempt to notify the
38 minor's parent, guardian, caregiver, or guardian advocate until
39 the receiving facility receives confirmation from the parent,
40 guardian, caregiver, or guardian advocate, verbally, by



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41 telephone or other form of electronic communication, or by
42 recorded message, that notification has been received. Attempts
43 to notify the parent, guardian, caregiver, or guardian advocate
44 must be repeated at least once every hour during the first 12
45 hours after the minor's arrival and once every 24 hours
46 thereafter and must continue until such confirmation is
47 received, unless the minor is released at the end of the 72-hour
48 examination period, or until a petition for involuntary
49 placement is filed with the court pursuant to s. 394.463(2)(i).
50 The receiving facility may seek assistance from a law
51 enforcement agency to notify the minor's parent, guardian,
52 caregiver, or guardian advocate if the facility has not received
53 within the first 24 hours after the minor's arrival a
54 confirmation by the parent, guardian, caregiver, or guardian
55 advocate that notification has been received. The receiving
56 facility must document notification attempts in the minor's
57 clinical record.

58 (d)~~(e)~~ The written notice of the filing of the petition for
59 involuntary placement of an individual being held must contain
60 the following:

61 1. Notice that the petition has been filed with the circuit
62 court in the county in which the individual patient is
63 hospitalized and the address of such court.

64 2. Notice that the office of the public defender has been
65 appointed to represent the individual patient in the proceeding,
66 if the individual patient is not otherwise represented by
67 counsel.

68 3. The date, time, and place of the hearing and the name of
69 each examining expert and every other person expected to testify



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70 in support of continued detention.

71 4. Notice that the individual patient, the individual's
72 patient's guardian, guardian advocate, health care surrogate or
73 proxy, or representative, or the administrator may apply for a
74 change of venue for the convenience of the parties or witnesses
75 or because of the condition of the individual patient.

76 5. Notice that the individual patient is entitled to an
77 independent expert examination and, if the individual patient
78 cannot afford such an examination, that the court will provide
79 for one.

80 (e)(d) A treatment facility shall provide notice of an
81 individual's a patient's involuntary admission on the next
82 regular working day after the individual's patient's arrival at
83 the facility.

84 (f)(e) When an individual a patient is to be transferred
85 from one facility to another, notice shall be given by the
86 facility where the individual patient is located before ~~prior to~~
87 the transfer.

88 Section 9. For the purpose of incorporating the amendment
89 made by this act to section 394.4599, Florida Statutes, in
90 references thereto, paragraph (a) of subsection (2) and
91 paragraph (d) of subsection (7) of section 394.4655, Florida
92 Statutes, are reenacted to read:

93 394.4655 Involuntary outpatient placement.—

94 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

95 (a)1. A patient who is being recommended for involuntary
96 outpatient placement by the administrator of the receiving
97 facility where the patient has been examined may be retained by
98 the facility after adherence to the notice procedures provided



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99 in s. 394.4599. The recommendation must be supported by the
100 opinion of a psychiatrist and the second opinion of a clinical
101 psychologist or another psychiatrist, both of whom have
102 personally examined the patient within the preceding 72 hours,
103 that the criteria for involuntary outpatient placement are met.
104 However, in a county having a population of fewer than 50,000,
105 if the administrator certifies that a psychiatrist or clinical
106 psychologist is not available to provide the second opinion, the
107 second opinion may be provided by a licensed physician who has
108 postgraduate training and experience in diagnosis and treatment
109 of mental and nervous disorders or by a psychiatric nurse. Any
110 second opinion authorized in this subparagraph may be conducted
111 through a face-to-face examination, in person or by electronic
112 means. Such recommendation must be entered on an involuntary
113 outpatient placement certificate that authorizes the receiving
114 facility to retain the patient pending completion of a hearing.
115 The certificate shall be made a part of the patient's clinical
116 record.

117 2. If the patient has been stabilized and no longer meets
118 the criteria for involuntary examination pursuant to s.
119 394.463(1), the patient must be released from the receiving
120 facility while awaiting the hearing for involuntary outpatient
121 placement. Before filing a petition for involuntary outpatient
122 treatment, the administrator of a receiving facility or a
123 designated department representative must identify the service
124 provider that will have primary responsibility for service
125 provision under an order for involuntary outpatient placement,
126 unless the person is otherwise participating in outpatient
127 psychiatric treatment and is not in need of public financing for



128 that treatment, in which case the individual, if eligible, may
129 be ordered to involuntary treatment pursuant to the existing
130 psychiatric treatment relationship.

131 3. The service provider shall prepare a written proposed
132 treatment plan in consultation with the patient or the patient's
133 guardian advocate, if appointed, for the court's consideration
134 for inclusion in the involuntary outpatient placement order. The
135 service provider shall also provide a copy of the proposed
136 treatment plan to the patient and the administrator of the
137 receiving facility. The treatment plan must specify the nature
138 and extent of the patient's mental illness, address the
139 reduction of symptoms that necessitate involuntary outpatient
140 placement, and include measurable goals and objectives for the
141 services and treatment that are provided to treat the person's
142 mental illness and assist the person in living and functioning
143 in the community or to prevent a relapse or deterioration.
144 Service providers may select and supervise other individuals to
145 implement specific aspects of the treatment plan. The services
146 in the treatment plan must be deemed clinically appropriate by a
147 physician, clinical psychologist, psychiatric nurse, mental
148 health counselor, marriage and family therapist, or clinical
149 social worker who consults with, or is employed or contracted
150 by, the service provider. The service provider must certify to
151 the court in the proposed treatment plan whether sufficient
152 services for improvement and stabilization are currently
153 available and whether the service provider agrees to provide
154 those services. If the service provider certifies that the
155 services in the proposed treatment plan are not available, the
156 petitioner may not file the petition.



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157 (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT
158 PLACEMENT.—

159 (d) Notice of the hearing shall be provided as set forth in
160 s. 394.4599. The patient and the patient's attorney may agree to
161 a period of continued outpatient placement without a court
162 hearing.

163 Section 10. For the purpose of incorporating the amendment
164 made by this act to section 394.4599, Florida Statutes, in
165 references thereto, subsection (2) and paragraph (b) of
166 subsection (7) of section 394.467, Florida Statutes, are
167 reenacted to read:

168 394.467 Involuntary inpatient placement.—

169 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be
170 retained by a receiving facility or involuntarily placed in a
171 treatment facility upon the recommendation of the administrator
172 of the receiving facility where the patient has been examined
173 and after adherence to the notice and hearing procedures
174 provided in s. 394.4599. The recommendation must be supported by
175 the opinion of a psychiatrist and the second opinion of a
176 clinical psychologist or another psychiatrist, both of whom have
177 personally examined the patient within the preceding 72 hours,
178 that the criteria for involuntary inpatient placement are met.
179 However, in a county that has a population of fewer than 50,000,
180 if the administrator certifies that a psychiatrist or clinical
181 psychologist is not available to provide the second opinion, the
182 second opinion may be provided by a licensed physician who has
183 postgraduate training and experience in diagnosis and treatment
184 of mental and nervous disorders or by a psychiatric nurse. Any
185 second opinion authorized in this subsection may be conducted



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186 through a face-to-face examination, in person or by electronic
187 means. Such recommendation shall be entered on an involuntary
188 inpatient placement certificate that authorizes the receiving
189 facility to retain the patient pending transfer to a treatment
190 facility or completion of a hearing.

191 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
192 PLACEMENT.—

193 (b) If the patient continues to meet the criteria for
194 involuntary inpatient placement, the administrator shall, prior
195 to the expiration of the period during which the treatment
196 facility is authorized to retain the patient, file a petition
197 requesting authorization for continued involuntary inpatient
198 placement. The request shall be accompanied by a statement from
199 the patient's physician or clinical psychologist justifying the
200 request, a brief description of the patient's treatment during
201 the time he or she was involuntarily placed, and an
202 individualized plan of continued treatment. Notice of the
203 hearing shall be provided as set forth in s. 394.4599. If at the
204 hearing the administrative law judge finds that attendance at
205 the hearing is not consistent with the best interests of the
206 patient, the administrative law judge may waive the presence of
207 the patient from all or any portion of the hearing, unless the
208 patient, through counsel, objects to the waiver of presence. The
209 testimony in the hearing must be under oath, and the proceedings
210 must be recorded.

211 Section 11. For the purpose of incorporating the amendment
212 made by this act to section 394.4599, Florida Statutes, in a
213 reference thereto, subsection (1) of section 394.4685, Florida
214 Statutes, is reenacted to read:



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215 394.4685 Transfer of patients among facilities.-

216 (1) TRANSFER BETWEEN PUBLIC FACILITIES.-

217 (a) A patient who has been admitted to a public receiving
218 facility, or the family member, guardian, or guardian advocate
219 of such patient, may request the transfer of the patient to
220 another public receiving facility. A patient who has been
221 admitted to a public treatment facility, or the family member,
222 guardian, or guardian advocate of such patient, may request the
223 transfer of the patient to another public treatment facility.
224 Depending on the medical treatment or mental health treatment
225 needs of the patient and the availability of appropriate
226 facility resources, the patient may be transferred at the
227 discretion of the department. If the department approves the
228 transfer of an involuntary patient, notice according to the
229 provisions of s. 394.4599 shall be given prior to the transfer
230 by the transferring facility. The department shall respond to
231 the request for transfer within 2 working days after receipt of
232 the request by the facility administrator.

233 (b) When required by the medical treatment or mental health
234 treatment needs of the patient or the efficient utilization of a
235 public receiving or public treatment facility, a patient may be
236 transferred from one receiving facility to another, or one
237 treatment facility to another, at the department's discretion,
238 or, with the express and informed consent of the patient or the
239 patient's guardian or guardian advocate, to a facility in
240 another state. Notice according to the provisions of s. 394.4599
241 shall be given prior to the transfer by the transferring
242 facility. If prior notice is not possible, notice of the
243 transfer shall be provided as soon as practicable after the



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244 transfer.

245 Section 12. For the purpose of incorporating the amendment
246 made by this act to section 394.4599, Florida Statutes, in a
247 reference thereto, subsection (2) of section 394.469, Florida
248 Statutes, is reenacted to read:

249 394.469 Discharge of involuntary patients.—

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

252

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

254 And the title is amended as follows:

255 Delete line 47

256 and insert:

257 admitted to a facility; requiring a receiving facility
258 to give notice immediately of the whereabouts of a
259 minor who is being held involuntarily to the minor's
260 parent, guardian, caregiver, or guardian advocate;
261 providing circumstances when notification may be
262 delayed; requiring the receiving facility to make
263 continuous attempts to notify; authorizing the
264 receiving facility to seek assistance from law
265 enforcement under certain circumstances; requiring the
266 receiving facility to document notification attempts
267 in the minor's clinical record; reenacting ss.
268 394.4655(2)(a) and (7)(d), 394.467(2) and (7)(b),
269 394.4685(1), and 394.469(2), F.S., to incorporate the
270 amendment made to s. 394.4599, F.S., in references
271 thereto; amending s. 394.4615, F.S.;