

Committee Substitute for
Committee Substitute for Senate Bill No. 456

An act relating to mental illness; providing a short title; amending s. 394.455, F.S.; defining the term “electronic means”; amending s. 394.462, F.S.; requiring a law enforcement agency that transports persons to a receiving facility to have a memorandum of understanding with the facility; requiring that custody of a person who is transported to a receiving or treatment facility be relinquished to a responsible person at the facility; amending ss. 394.4655 and 394.467, F.S.; specifying that a psychiatric examination by certain personnel be conducted face-to-face, in person or by electronic means; providing an effective date.

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

Section 1. This act may be cited as the “Deputy Anthony Forgione Act.”

Section 2. Subsection (38) is added to section 394.455, Florida Statutes, to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(38) “Electronic means” means a form of telecommunication that requires all parties to maintain visual as well as audio communication.

Section 3. Present paragraphs (k) and (l) of subsection (1) of section 394.462, Florida Statutes, are redesignated as paragraphs (l) and (m), respectively, a new paragraph (k) is added to that subsection, present subsection (3) of that section is renumbered as subsection (4), and a new subsection (3) is added to that section, to read:

394.462 Transportation.—

(1) TRANSPORTATION TO A RECEIVING FACILITY.—

(k) Each law enforcement agency shall develop a memorandum of understanding with each receiving facility within the law enforcement agency’s jurisdiction which reflects a single set of protocols for the safe and secure transportation of the person and transfer of custody of the person. These protocols must also address crisis-intervention measures.

(3) TRANSFER OF CUSTODY.—Custody of a person who is transported pursuant to this part, along with related documentation, shall be relinquished to a responsible individual at the appropriate receiving or treatment facility.

Section 4. Paragraphs (a) and (b) of subsection (2) of section 394.4655, Florida Statutes, are amended to read:

394.4655 Involuntary outpatient placement.—

(2) INVOLUNTARY OUTPATIENT PLACEMENT.—

(a)1. A patient who is being recommended for involuntary outpatient placement by ~~may be retained by a receiving facility upon the recommendation of the administrator of the~~ a receiving facility where the patient has been examined may be retained by the facility ~~and~~ after adherence to the notice of hearing procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient placement are met. However, in a county having a population of fewer than 50,000, if the administrator certifies that a ~~no~~ psychiatrist or clinical psychologist is not available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental and nervous disorders or by a psychiatric nurse ~~as defined in this chapter.~~ Any second opinion authorized in this subparagraph may be conducted through a face-to-face examination, in person or by electronic means. Such a recommendation must be entered on an involuntary outpatient placement certificate ~~that authorizes, which certificate must authorize~~ the receiving facility to retain the patient pending completion of a hearing. The certificate shall be made a part of the patient's clinical record.

2. If the patient has been stabilized and no longer meets the criteria for involuntary examination pursuant to s. 394.463(1), the patient must be released from the receiving facility while awaiting the hearing for involuntary outpatient placement. ~~Before~~ Prior to filing a petition for involuntary outpatient treatment, the administrator of a receiving facility or a designated department representative must ~~shall~~ identify the service provider that will have primary responsibility for service provision under an order for involuntary outpatient placement, unless the person is otherwise participating in outpatient psychiatric treatment and is not in need of public financing for that treatment, in which case the individual, if eligible, may be ordered to involuntary treatment pursuant to the existing psychiatric treatment relationship.

3. The service provider shall prepare a written proposed treatment plan in consultation with the patient or the patient's guardian advocate, if appointed, for the court's consideration for inclusion in the involuntary outpatient placement order. The service provider shall also provide a copy of the proposed treatment plan to the patient and the administrator of the receiving facility. The treatment plan must specify the nature and extent of the patient's mental illness, ~~The treatment plan must~~ address the reduction of symptoms that necessitate involuntary outpatient placement, and include measurable goals and objectives for the services and treatment that are provided to treat the person's mental illness and ~~to~~ assist the person in living and functioning in the community or to ~~attempt to~~ prevent a relapse or deterioration. Service providers may select and supervise ~~provide supervision to~~ other individuals to implement specific aspects of the treatment plan. The services in the treatment plan must be deemed ~~to be~~ clinically

appropriate by a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker, ~~as defined in this chapter,~~ who consults with, or is employed or contracted by, the service provider. The service provider must certify to the court in the proposed treatment plan whether sufficient services for improvement and stabilization are currently available and whether the service provider agrees to provide those services. If the service provider certifies that the services in the proposed treatment plan are not available, the petitioner may not file the petition.

(b) If a patient in involuntary inpatient placement meets the criteria for involuntary outpatient placement, the administrator of the treatment facility may, before the expiration of the period during which the treatment facility is authorized to retain the patient, recommend involuntary outpatient placement. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient placement are met. However, in a county having a population of fewer than 50,000, if the administrator certifies that a ~~no~~ psychiatrist or clinical psychologist is not available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental and nervous disorders or by a psychiatric nurse ~~as defined in s. 394.455(23)~~. Any second opinion authorized in this subparagraph may be conducted through a face-to-face examination, in person or by electronic means. Such a recommendation must be entered on an involuntary outpatient placement certificate, and the certificate must ~~shall~~ be made a part of the patient's clinical record.

Section 5. Subsection (2) of section 394.467, Florida Statutes, is amended to read:

394.467 Involuntary inpatient placement.—

(2) **ADMISSION TO A TREATMENT FACILITY.**—A patient may be retained by a receiving facility or involuntarily placed in a treatment facility upon the recommendation of the administrator of the ~~a~~ receiving facility where the patient has been examined and after adherence to the notice and hearing procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary inpatient placement are met. However, in a county that has a population of fewer counties of less than 50,000 population, if the administrator certifies that a ~~no~~ psychiatrist or clinical psychologist is not available to provide the second opinion, ~~the~~ such second opinion may be provided by a licensed physician who has with postgraduate training and experience in diagnosis and treatment of mental and nervous disorders or by a psychiatric nurse ~~as defined in s. 394.455(23)~~. Any second opinion authorized in this subsection may be conducted through a face-to-face examination, in person or by electronic means. Such recommendation shall be entered on an involuntary inpatient placement certificate that authorizes, ~~which certificate~~

~~shall authorize~~ the receiving facility to retain the patient pending transfer to a treatment facility or completion of a hearing.

Section 6. This act shall take effect July 1, 2009.

Approved by the Governor May 20, 2009.

Filed in Office Secretary of State May 20, 2009.