

26 | 394.463 Involuntary examination.—
 27 | (2) INVOLUNTARY EXAMINATION.—
 28 | (a) An involuntary examination may be initiated by any one
 29 | of the following means:
 30 | 1. A circuit or county court may enter an ex parte order
 31 | stating that a person appears to meet the criteria for
 32 | involuntary examination and specifying the findings on which
 33 | that conclusion is based. The ex parte order for involuntary
 34 | examination must be based on written or oral sworn testimony
 35 | that includes specific facts that support the findings. If other
 36 | less restrictive means are not available, such as voluntary
 37 | appearance for outpatient evaluation, a law enforcement officer,
 38 | or other designated agent of the court, shall take the person
 39 | into custody and deliver him or her to an appropriate, or the
 40 | nearest, facility within the designated receiving system
 41 | pursuant to s. 394.462 for involuntary examination. The order of
 42 | the court shall be made a part of the patient's clinical record.
 43 | A fee may not be charged for the filing of an order under this
 44 | subsection. A facility accepting the patient based on this order
 45 | must send a copy of the order to the department within 5 working
 46 | days. The order may be submitted electronically through existing
 47 | data systems, if available. The order shall be valid only until
 48 | the person is delivered to the facility or for the period
 49 | specified in the order itself, whichever comes first. If a time
 50 | limit is not specified in the order, the order is valid for 7

51 days after the date that the order was signed.

52 2. A law enforcement officer shall take a person who
53 appears to meet the criteria for involuntary examination into
54 custody and deliver the person or have him or her delivered to
55 an appropriate, or the nearest, facility within the designated
56 receiving system pursuant to s. 394.462 for examination. The
57 officer shall execute a written report detailing the
58 circumstances under which the person was taken into custody,
59 which must be made a part of the patient's clinical record. Any
60 facility accepting the patient based on this report must send a
61 copy of the report to the department within 5 working days.

62 3. A physician, a physician assistant, a clinical
63 psychologist, a psychiatric nurse, an advanced practice
64 registered nurse registered under s. 464.0123, a mental health
65 counselor, a marriage and family therapist, or a clinical social
66 worker may execute a certificate stating that he or she has
67 examined a person within the preceding 48 hours and finds that
68 the person appears to meet the criteria for involuntary
69 examination and stating the observations upon which that
70 conclusion is based. If other less restrictive means, such as
71 voluntary appearance for outpatient evaluation, are not
72 available, a law enforcement officer shall take into custody the
73 person named in the certificate and deliver him or her to the
74 appropriate, or nearest, facility within the designated
75 receiving system pursuant to s. 394.462 for involuntary

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76 examination. The law enforcement officer shall execute a written
77 report detailing the circumstances under which the person was
78 taken into custody. The report and certificate shall be made a
79 part of the patient's clinical record. Any facility accepting
80 the patient based on this certificate must send a copy of the
81 certificate to the department within 5 working days. The
82 document may be submitted electronically through existing data
83 systems, if applicable.

84
85 When sending the order, report, or certificate to the
86 department, a facility shall, at a minimum, provide information
87 about which action was taken regarding the patient under
88 paragraph (h) ~~(g)~~, which information shall also be made a part
89 of the patient's clinical record.

90 ~~(d)1. A law enforcement officer taking custody of a person~~
91 ~~under this subsection may seize and hold a firearm or any~~
92 ~~ammunition the person possesses at the time of taking him or her~~
93 ~~into custody if the person poses a potential danger to himself~~
94 ~~or herself or others and has made a credible threat of violence~~
95 ~~against another person.~~

96 ~~2. If the law enforcement officer takes custody of the~~
97 ~~person at the person's residence and the criteria in~~
98 ~~subparagraph 1. have been met, the law enforcement officer may~~
99 ~~seek the voluntary surrender of firearms or ammunition kept in~~
100 ~~the residence which have not already been seized under~~

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101 ~~subparagraph 1. If such firearms or ammunition are not~~
102 ~~voluntarily surrendered, or if the person has other firearms or~~
103 ~~ammunition that were not seized or voluntarily surrendered when~~
104 ~~he or she was taken into custody, a law enforcement officer may~~
105 ~~petition the appropriate court under s. 790.401 for a risk~~
106 ~~protection order against the person.~~

107 ~~3. Firearms or ammunition seized or voluntarily~~
108 ~~surrendered under this paragraph must be made available for~~
109 ~~return no later than 24 hours after the person taken into~~
110 ~~custody can document that he or she is no longer subject to~~
111 ~~involuntary examination and has been released or discharged from~~
112 ~~any inpatient or involuntary outpatient treatment provided or~~
113 ~~ordered under paragraph (g), unless a risk protection order~~
114 ~~entered under s. 790.401 directs the law enforcement agency to~~
115 ~~hold the firearms or ammunition for a longer period or the~~
116 ~~person is subject to a firearm purchase disability under s.~~
117 ~~790.065(2), or a firearm possession and firearm ownership~~
118 ~~disability under s. 790.064. The process for the actual return~~
119 ~~of firearms or ammunition seized or voluntarily surrendered~~
120 ~~under this paragraph may not take longer than 7 days.~~

121 ~~4. Law enforcement agencies must develop policies and~~
122 ~~procedures relating to the seizure, storage, and return of~~
123 ~~firearms or ammunition held under this paragraph.~~

124 ~~(g)(h)~~ A person for whom an involuntary examination has
125 been initiated who is being evaluated or treated at a hospital

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126 | for an emergency medical condition specified in s. 395.002 must
127 | be examined by a facility within the examination period
128 | specified in paragraph (f) ~~(g)~~. The examination period begins
129 | when the patient arrives at the hospital and ceases when the
130 | attending physician documents that the patient has an emergency
131 | medical condition. If the patient is examined at a hospital
132 | providing emergency medical services by a professional qualified
133 | to perform an involuntary examination and is found as a result
134 | of that examination not to meet the criteria for involuntary
135 | outpatient services pursuant to s. 394.4655(2) or involuntary
136 | inpatient placement pursuant to s. 394.467(1), the patient may
137 | be offered voluntary services or placement, if appropriate, or
138 | released directly from the hospital providing emergency medical
139 | services. The finding by the professional that the patient has
140 | been examined and does not meet the criteria for involuntary
141 | inpatient services or involuntary outpatient placement must be
142 | entered into the patient's clinical record. This paragraph is
143 | not intended to prevent a hospital providing emergency medical
144 | services from appropriately transferring a patient to another
145 | hospital before stabilization if the requirements of s.
146 | 395.1041(3)(c) have been met.

147 | Section 2. Paragraph (c) of subsection (2) of section
148 | 394.4599, Florida Statutes, is amended to read:

149 | 394.4599 Notice.—

150 | (2) INVOLUNTARY ADMISSION.—

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151 (c)1. A receiving facility shall give notice of the
152 whereabouts of a minor who is being involuntarily held for
153 examination pursuant to s. 394.463 to the minor's parent,
154 guardian, caregiver, or guardian advocate, in person or by
155 telephone or other form of electronic communication, immediately
156 after the minor's arrival at the facility. The facility may
157 delay notification for no more than 24 hours after the minor's
158 arrival if the facility has submitted a report to the central
159 abuse hotline, pursuant to s. 39.201, based upon knowledge or
160 suspicion of abuse, abandonment, or neglect and if the facility
161 deems a delay in notification to be in the minor's best
162 interest.

163 2. The receiving facility shall attempt to notify the
164 minor's parent, guardian, caregiver, or guardian advocate until
165 the receiving facility receives confirmation from the parent,
166 guardian, caregiver, or guardian advocate, verbally, by
167 telephone or other form of electronic communication, or by
168 recorded message, that notification has been received. Attempts
169 to notify the parent, guardian, caregiver, or guardian advocate
170 must be repeated at least once every hour during the first 12
171 hours after the minor's arrival and once every 24 hours
172 thereafter and must continue until such confirmation is
173 received, unless the minor is released at the end of the 72-hour
174 examination period, or until a petition for involuntary services
175 is filed with the court pursuant to s. 394.463(2)(f) ~~s.~~

176 | ~~394.463(2)(g)~~. The receiving facility may seek assistance from a
 177 | law enforcement agency to notify the minor's parent, guardian,
 178 | caregiver, or guardian advocate if the facility has not received
 179 | within the first 24 hours after the minor's arrival a
 180 | confirmation by the parent, guardian, caregiver, or guardian
 181 | advocate that notification has been received. The receiving
 182 | facility must document notification attempts in the minor's
 183 | clinical record.

184 | Section 3. Section 790.064, Florida Statutes, is repealed.

185 | Section 4. Paragraph (a) of subsection (2) and subsection
 186 | (13) of section 790.065, Florida Statutes, are amended to read:
 187 | 790.065 Sale and delivery of firearms.—

188 | (2) Upon receipt of a request for a criminal history
 189 | record check, the Department of Law Enforcement shall, during
 190 | the licensee's call or by return call, forthwith:

191 | (a) Review any records available to determine if the
 192 | potential buyer or transferee:

193 | 1. Has been convicted of a felony and is prohibited from
 194 | receipt or possession of a firearm pursuant to s. 790.23;

195 | 2. Has been convicted of a misdemeanor crime of domestic
 196 | violence, and therefore is prohibited from purchasing a firearm;

197 | 3. Has had adjudication of guilt withheld or imposition of
 198 | sentence suspended on any felony or misdemeanor crime of
 199 | domestic violence unless 3 years have elapsed since probation or
 200 | any other conditions set by the court have been fulfilled or

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201 expunction has occurred; or

202 4. Has been adjudicated mentally defective or has been
203 committed to a mental institution by a court or as provided in
204 sub-sub-subparagraph b. (II), and as a result is prohibited by
205 state or federal law from purchasing a firearm.

206 a. As used in this subparagraph, "adjudicated mentally
207 defective" means a determination by a court that a person, as a
208 result of marked subnormal intelligence, or mental illness,
209 incompetency, condition, or disease, is a danger to himself or
210 herself or to others or lacks the mental capacity to contract or
211 manage his or her own affairs. The phrase includes a judicial
212 finding of incapacity under s. 744.331(6)(a), an acquittal by
213 reason of insanity of a person charged with a criminal offense,
214 and a judicial finding that a criminal defendant is not
215 competent to stand trial.

216 b. As used in this subparagraph, "committed to a mental
217 institution" means:

218 (I) Involuntary commitment, commitment for mental
219 defectiveness or mental illness, and commitment for substance
220 abuse. The phrase includes involuntary inpatient placement as
221 defined in s. 394.467, involuntary outpatient placement as
222 defined in s. 394.4655, involuntary assessment and stabilization
223 under s. 397.6818, and involuntary substance abuse treatment
224 under s. 397.6957, but does not include a person in a mental
225 institution for observation or discharged from a mental

226 institution based upon the initial review by the physician or a
227 voluntary admission to a mental institution; or

228 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
229 admission to a mental institution for outpatient or inpatient
230 treatment of a person who had an involuntary examination under
231 s. 394.463, where each of the following conditions have been
232 met:

233 (A) An examining physician found that the person is an
234 imminent danger to himself or herself or others.

235 (B) The examining physician certified that if the person
236 did not agree to voluntary treatment, a petition for involuntary
237 outpatient or inpatient treatment would have been filed under s.
238 394.463(2)(f)4. ~~s. 394.463(2)(g)4.~~, or the examining physician
239 certified that a petition was filed and the person subsequently
240 agreed to voluntary treatment prior to a court hearing on the
241 petition.

242 (C) Before agreeing to voluntary treatment, the person
243 received written notice of that finding and certification, and
244 written notice that as a result of such finding, he or she may
245 be prohibited from purchasing a firearm, and may not be eligible
246 to apply for or retain a concealed weapon or firearms license
247 under s. 790.06 and the person acknowledged such notice in
248 writing, in substantially the following form:

249 "I understand that the doctor who examined me believes I am a
250 danger to myself or to others. I understand that if I do not

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251 agree to voluntary treatment, a petition will be filed in court
252 to require me to receive involuntary treatment. I understand
253 that if that petition is filed, I have the right to contest it.
254 In the event a petition has been filed, I understand that I can
255 subsequently agree to voluntary treatment prior to a court
256 hearing. I understand that by agreeing to voluntary treatment in
257 either of these situations, I may be prohibited from buying
258 firearms and from applying for or retaining a concealed weapons
259 or firearms license until I apply for and receive relief from
260 that restriction under Florida law."

261 (D) A judge or a magistrate has, pursuant to sub-sub-
262 subparagraph c.(II), reviewed the record of the finding,
263 certification, notice, and written acknowledgment classifying
264 the person as an imminent danger to himself or herself or
265 others, and ordered that such record be submitted to the
266 department.

267 c. In order to check for these conditions, the department
268 shall compile and maintain an automated database of persons who
269 are prohibited from purchasing a firearm based on court records
270 of adjudications of mental defectiveness or commitments to
271 mental institutions.

272 (I) Except as provided in sub-sub-subparagraph (II),
273 clerks of court shall submit these records to the department
274 within 1 month after the rendition of the adjudication or
275 commitment. Reports shall be submitted in an automated format.

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276 The reports must, at a minimum, include the name, along with any
277 known alias or former name, the sex, and the date of birth of
278 the subject.

279 (II) For persons committed to a mental institution
280 pursuant to sub-sub-subparagraph b.(II), within 24 hours after
281 the person's agreement to voluntary admission, a record of the
282 finding, certification, notice, and written acknowledgment must
283 be filed by the administrator of the receiving or treatment
284 facility, as defined in s. 394.455, with the clerk of the court
285 for the county in which the involuntary examination under s.
286 394.463 occurred. No fee shall be charged for the filing under
287 this sub-sub-subparagraph. The clerk must present the records to
288 a judge or magistrate within 24 hours after receipt of the
289 records. A judge or magistrate is required and has the lawful
290 authority to review the records ex parte and, if the judge or
291 magistrate determines that the record supports the classifying
292 of the person as an imminent danger to himself or herself or
293 others, to order that the record be submitted to the department.
294 If a judge or magistrate orders the submittal of the record to
295 the department, the record must be submitted to the department
296 within 24 hours.

297 d. A person who has been adjudicated mentally defective or
298 committed to a mental institution, as those terms are defined in
299 this paragraph, may petition the court that made the
300 adjudication or commitment, or the court that ordered that the

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301 record be submitted to the department pursuant to sub-sub-
302 subparagraph c.(II), for relief from the firearm disabilities
303 imposed by such adjudication or commitment. A copy of the
304 petition shall be served on the state attorney for the county in
305 which the person was adjudicated or committed. The state
306 attorney may object to and present evidence relevant to the
307 relief sought by the petition. The hearing on the petition may
308 be open or closed as the petitioner may choose. The petitioner
309 may present evidence and subpoena witnesses to appear at the
310 hearing on the petition. The petitioner may confront and cross-
311 examine witnesses called by the state attorney. A record of the
312 hearing shall be made by a certified court reporter or by court-
313 approved electronic means. The court shall make written findings
314 of fact and conclusions of law on the issues before it and issue
315 a final order. The court shall grant the relief requested in the
316 petition if the court finds, based on the evidence presented
317 with respect to the petitioner's reputation, the petitioner's
318 mental health record and, if applicable, criminal history
319 record, the circumstances surrounding the firearm disability,
320 and any other evidence in the record, that the petitioner will
321 not be likely to act in a manner that is dangerous to public
322 safety and that granting the relief would not be contrary to the
323 public interest. If the final order denies relief, the
324 petitioner may not petition again for relief from firearm
325 disabilities until 1 year after the date of the final order. The

326 petitioner may seek judicial review of a final order denying
327 relief in the district court of appeal having jurisdiction over
328 the court that issued the order. The review shall be conducted
329 de novo. Relief from a firearm disability granted under this
330 sub-subparagraph has no effect on the loss of civil rights,
331 including firearm rights, for any reason other than the
332 particular adjudication of mental defectiveness or commitment to
333 a mental institution from which relief is granted.

334 e. Upon receipt of proper notice of relief from firearm
335 disabilities granted under sub-subparagraph d., the department
336 shall delete any mental health record of the person granted
337 relief from the automated database of persons who are prohibited
338 from purchasing a firearm based on court records of
339 adjudications of mental defectiveness or commitments to mental
340 institutions.

341 f. The department is authorized to disclose data collected
342 pursuant to this subparagraph to agencies of the Federal
343 Government and other states for use exclusively in determining
344 the lawfulness of a firearm sale or transfer. The department is
345 also authorized to disclose this data to the Department of
346 Agriculture and Consumer Services for purposes of determining
347 eligibility for issuance of a concealed weapons or concealed
348 firearms license and for determining whether a basis exists for
349 revoking or suspending a previously issued license pursuant to
350 s. 790.06(10). When a potential buyer or transferee appeals a

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351 nonapproval based on these records, the clerks of court and
352 mental institutions shall, upon request by the department,
353 provide information to help determine whether the potential
354 buyer or transferee is the same person as the subject of the
355 record. Photographs and any other data that could confirm or
356 negate identity must be made available to the department for
357 such purposes, notwithstanding any other provision of state law
358 to the contrary. Any such information that is made confidential
359 or exempt from disclosure by law shall retain such confidential
360 or exempt status when transferred to the department.

361 ~~(13) A person younger than 21 years of age may not~~
362 ~~purchase a firearm. The sale or transfer of a firearm to a~~
363 ~~person younger than 21 years of age may not be made or~~
364 ~~facilitated by a licensed importer, licensed manufacturer, or~~
365 ~~licensed dealer. A person who violates this subsection commits a~~
366 ~~felony of the third degree, punishable as provided in s.~~
367 ~~775.082, s. 775.083, or s. 775.084. The prohibitions of this~~
368 ~~subsection do not apply to the purchase of a rifle or shotgun by~~
369 ~~a law enforcement officer or correctional officer, as those~~
370 ~~terms are defined in s. 943.10(1), (2), (3), (6), (7), (8), or~~
371 ~~(9), or a servicemember as defined in s. 250.01.~~

372 Section 5. Paragraphs (c) and (d) of subsection (2) of
373 section 790.0655, Florida Statutes, are amended to read:

374 790.0655 Purchase and delivery of firearms; mandatory
375 waiting period; exceptions; penalties.—

376 (2) The waiting period does not apply in the following
 377 circumstances:

378 ~~(c) To the purchase of a rifle or shotgun, upon a person's~~
 379 ~~successfully completing a minimum of a 16-hour hunter safety~~
 380 ~~course and possessing a hunter safety certification card issued~~
 381 ~~under s. 379.3581. A person who is exempt from the hunter safety~~
 382 ~~course requirements under s. 379.3581 and holds a valid Florida~~
 383 ~~hunting license is exempt from the mandatory waiting period~~
 384 ~~under this section for the purchase of a rifle or shotgun.~~

385 ~~(d) When a rifle or shotgun is being purchased by a law~~
 386 ~~enforcement officer or correctional officer, as those terms are~~
 387 ~~defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a~~
 388 ~~servicemember as defined in s. 250.01.~~

389 Section 6. Section 790.222, Florida Statutes, is repealed.

390 Section 7. Section 790.401, Florida Statutes, is repealed.

391 Section 8. This act shall take effect upon becoming a law.