

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2013-034 PA/PI-CIR

**RE: PROCEEDINGS TO PROHIBIT PURCHASE OF FIREARMS BY THE
MENTALLY ILL**

The Legislature has enacted HB 1355, which became Ch. 2013-249, Laws of Fla. This bill, entitled “An act relating to the purchase of firearms by mentally ill persons,” establishes a procedure so that certain persons voluntarily admitted for mental health treatment will be prohibited from purchasing a firearm. This Act does not change existing procedures to report involuntary admissions and the resulting prohibition on such persons purchasing a firearm. The Act does create a new matter to be brought before the Court for persons voluntarily admitted with time limits established by law. Accordingly, new procedures need to be established in the Sixth Judicial Circuit.

As specified in the Act, within 24 hours of a qualifying patient’s agreement to a voluntary admission to a mental institution, the administrator of the receiving or treatment facility must file with the Clerk of the Circuit Court (Clerk):

- a. The examining physician’s finding that the person is an imminent danger to himself/herself or others, including a description of the person’s behavior that led to the finding;
- b. The examining physician’s certification that if the patient did not agree to voluntary treatment that a petition for involuntary outpatient or inpatient treatment would have been filed under §394.463(2)(i)4, Fla. Stat., or a petition for involuntary treatment was filed and the patient subsequently agreed to voluntary treatment prior to a court hearing on the petition;
- c. Written notice of the examining physician’s finding and certification that the patient received prior to agreeing to voluntary treatment, which contained a statement that the patient would be prohibited from purchasing a firearm and would not be eligible to apply for or retain a concealed weapon or firearm license under §790.06, Fla. Stat.; and
- d. The patient’s written acknowledgment that he/she understands the above-described findings.

The Act also requires the Clerk to transmit the filing to the Court within 24 hours and to transmit the Court’s order to the Florida Department of Law Enforcement within 24 hours of receipt of the order.

The Act does not specify a method of computing these 24 hour time periods. Rule of Judicial Administration 2.514, provides that when a statute does not specify a method of computing time, time is computed as specified in the Rule. Rule 2.514(2)(c) provides that when

the period is stated in hours, and when a time period would end on a Saturday, Sunday, or legal holiday, or during any period of time extended through an order of the Chief Justice, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday and does not fall within any period of time extended through an order of the Chief Justice.

In accordance with Article V, section 2, Florida Constitution, Rules of Judicial Administration 2.215 and 2.514, and §43.26, Florida Statutes, it is

ORDERED:

1. The Clerks of the Circuit Court (Clerks) are directed to comply with the statutory time periods as computed in accordance with Rule of Judicial Administration 2.514. The Clerk is not required to perform any duties required under the Act on weekends, holidays, or during periods of time extended by the Chief Justice.
2. When the Clerk of the Circuit Court receives a filing to exclude a voluntarily admitted patient from purchasing a firearm, the Clerk must, within 24 hours of receipt of the filing, present the filings to the Court. The 24-hour period shall be computed as provided in Rule of Judicial Administration 2.514(a)(2).
 - a. In Pinellas County, the filings must be provided to the Magistrate's office in the Probate and Guardianship Division who will review the matter with the Probate Administrative Judge or another probate judge. If a probate judge is unavailable, the Magistrate's office will submit it to the duty judge.
 - b. In Pasco County, the filings must be provided to the Probate Judge. If the Probate Judge is unavailable, the filings must be submitted to the civil judge assigned to section G. If neither the probate judge nor the judge assigned to section G is available, the filings must be submitted to the duty judge.
3. The judge reviewing the matter may use Attachment A, Confidential Ex Parte Order Directing Entry of Record in FDLE's Database of Persons Prohibited From Purchasing Firearms or Attachment B, Confidential Ex Parte Interim Order Requiring Further Documentation On Voluntary Commitment.
4. In the event the Clerk has not received an order from the Court within 24 hours after submission of the filings to the judge(s) as described above, the Clerk is directed to forthwith notify the Chief Judge by telephone or e-mail. The 24-hour period shall be computed as provided in Rule of Judicial Administration 2.514(a)(2).
5. If the Court orders that the record be submitted to the Florida Department of Law Enforcement, the Clerk must submit it to the FDLE within 24 hours of receipt of the order from the Court. The 24-hour period shall be computed as provided in Rule of Judicial Administration 2.514(a)(2).

6. The Clerks of Pasco County and Pinellas County are directed to
 - a. Develop a new case type or docket code for these submissions,
 - b. Track the number of submissions made under this Act, and
 - c. Report any problems with these procedures to the Chief Judge.

7. Nothing in this Administrative Order modifies the procedures for reporting involuntary admissions to mental institutions and the resulting prohibition on purchasing firearms by such persons.

DONE AND ORDERED in Chambers at Clearwater, Pinellas County, Florida this _____ day of July, 2013.

ORIGINAL SIGNED ON JULY 1, 2013
BY J. THOMAS MCGRADY, CHIEF JUDGE

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Paula S. O'Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Gay Inskip, Trial Courts Administrator
Ngozi Acholonu, Assistant Regional Counsel
Myriam Irizarry, Chief Deputy Director, Pinellas County Clerk's Office
Nikki Alvarez, Chief Operations Office, Pasco County Clerk's Office
Kimberly Collins, Director of Criminal Courts, Pasco County Clerk's Office
Renita George, Probate Supervisor, Pasco County Clerk's Office
Lillian Simon, Director of Administrative Services for Pasco County
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA
PROBATE DIVISION**

**IN RE: [NAME]
[ADDRESS]**

**UCN:
REF #:**

**CONFIDENTIAL EX PARTE ORDER DIRECTING ENTRY OF RECORD IN FDLE'S
DATABASE OF PERSONS PROHIBITED FROM PURCHASING FIREARMS**

THIS CAUSE came before the Court on [__ date __] to determine if [__ name __] may be prohibited from purchasing a firearm because of his/her voluntary admission to a mental institution for outpatient or inpatient treatment after an involuntary examination under section 394.463, Florida Statutes.

The Court, having reviewed the following records:

____ The examining physician's finding that the person is an imminent danger to himself/herself or others;

____ The examining physician's certification that:

____ if the person did not agree to voluntary treatment that a petition for involuntary outpatient or inpatient treatment would have been filed under section 394.463(2)(i)4, OR
____ a petition for involuntary treatment was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition;

____ The written notice of the examining physician's finding and certification that the person received prior to agreeing to voluntary treatment, and which contained a statement that he/she would be prohibited from purchasing a firearm and would not be eligible to apply for or retain a concealed weapon or firearm license under section 790.06; and

____ [__ Name __]'s written acknowledgment that he/she understands the above-described finding, certification and notice;

FINDS the record supports the classification of [__ name __] as an imminent danger to himself/herself or others and hereby **ORDERS** that such record be submitted to the Florida Department of Law Enforcement in accord with Section 790.065, Florida Statutes. The Clerk of Court is **DIRECTED** to forward the record and this Order to the Florida Department of Law Enforcement within 24 hours of the entry of this Order.

DONE AND ORDERED in Chambers, at _____, _____ County, Florida, this ____ day of _____, 2013, at ____:____ am/pm.

CIRCUIT JUDGE

Copies furnished to:
Receiving or Treatment Facility Administrator:
[____ Name of Patient ____]

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA
PROBATE DIVISION**

**IN RE: [NAME]
[ADDRESS]**

**UCN:
REF #:**

**CONFIDENTIAL EX PARTE INTERIM ORDER REQUIRING FURTHER
DOCUMENTATION ON VOLUNTARY COMMITMENT**

THIS CAUSE came before the Court on [__date__] to determine if [__name__] may be prohibited from purchasing a firearm because of his/her voluntary admission to a mental institution for outpatient or inpatient treatment after an involuntary examination under section 394.463, Florida Statutes.

The Court, having reviewed the submitted documentation, **FINDS** as follows:

_____ The examining physician's finding that the person is an imminent danger to himself/herself or others is missing;

_____ The examining physician's finding that the person is an imminent danger to himself/herself or others lacks a description of the person's behavior that resulted in such a finding and must be supplemented;

_____ The examining physician's certification that if the person did not agree to voluntary treatment that a petition for involuntary outpatient or inpatient treatment would have been filed under section 394.463(2)(i)4, Florida Statutes, OR a petition for involuntary treatment was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition is missing;

_____ The written notice of the examining physician's finding and certification that the person received prior to agreeing to voluntary treatment, and which contained a statement that the person would be prohibited from purchasing a firearm and would not be eligible to apply for or retain a concealed weapon or firearm license under section 790.06 is missing;

_____ [__Name__]'s written acknowledgment that he/she understands the above-described finding, certification and notice is missing;

_____ [__Name__]'s written acknowledgment that he/she understands the above-described finding, certification, and notice contains the notation that the acknowledgment was refused;

_____ Other:_____.

Based on the incomplete record presented to the Court by the examining physician, the Court cannot at this time find that [name]'s voluntary commitment procedure met the requirements of Section 790.065, Florida Statutes, so as to require that he/she be prohibited from purchasing a firearm or that his/her name be added to the FDLE's Mental Competency (MECOM) database. It is therefore

ORDERED that the examining physician file with this Court adequate documentation of this voluntary commitment procedure within 3 days. The Court reserves jurisdiction to enter further orders in this matter. It is further

ORDERED that a failure to timely file the documentation requested will result in:

- A dismissal of the matter with prejudice, without further order of this Court,
- The person's record will not be submitted to the FDLE database, and
- The person will not be precluded from purchasing a firearm because of a voluntary admission to a mental institution.

DONE AND ORDERED in Chambers, at _____, _____ County, Florida, this ____ day of _____, 2013, at ____:____ am/pm.

CIRCUIT JUDGE

Copies furnished to:
Receiving or Treatment Facility Administrator:
[Name of Patient]