

<b>Tab 1</b> SB 200 by Passidomo (CO-INTRODUCERS) Torres; (Compare to CS/CS/H 00363) Temporary Respite Care of a Child							
256730	D	S	RCS	CF, Passidomo	Delete everything after	04/03	03:48 PM
105330	AA	S L	FAV	CF, Passidomo	Delete L.49:	04/03	03:48 PM
<b>Tab 2</b> CS/SB 414 by HP, Grimsley; (Similar to CS/H 00863) Hospice Services							
379590	A	S L	RCS	CF, Grimsley	Delete L.29:	04/03	03:49 PM
<b>Tab 3</b> SB 570 by Rouson; (Similar to CS/CS/H 00023) Public Assistance							
309382	A	S	RCS	CF, Rouson	Delete L.31 - 239:	04/03	03:49 PM
<b>Tab 4</b> SB 634 by Campbell; (Identical to H 00645) Involuntary Examinations Under the Baker Act							
<b>Tab 5</b> SB 1260 by Bean; (Compare to CS/H 00593) Restrictions on Use of Public Assistance Benefits							
<b>Tab 6</b> SB 1680 by Baxley (CO-INTRODUCERS) Steube; (Similar to H 07075) Child Welfare							
635208	A	S	RCS	CF, Baxley	Delete L.323 - 369.	04/03	03:49 PM
<b>Tab 7</b> SB 1756 by Garcia; (Compare to H 00645) Examination and Treatment of Individuals with Mental Illness							
375730	D	S	RCS	CF, Garcia	Delete everything after	04/03	03:49 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**

**Senator Garcia, Chair**  
**Senator Torres, Vice Chair**

**MEETING DATE:** Monday, April 3, 2017

**TIME:** 1:30—3:30 p.m.

**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

**MEMBERS:** Senator Garcia, Chair; Senator Torres, Vice Chair; Senators Artiles, Broxson, Campbell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 200</b> Passidomo (Compare CS/CS/H 363)	Temporary Respite Care of a Child; Authorizing certain organizations to establish programs for the purpose of assisting parents and legal guardians in providing temporary respite care for a child; providing that placement of a child in temporary respite care does not, in the absence of evidence to the contrary, constitute abuse, neglect, or abandonment or placement in foster care; authorizing the Department of Children and Families to refer children to such programs under certain circumstances, etc.  CF     04/03/2017 Fav/CS JU RC	Fav/CS Yeas 5 Nays 0
2	<b>CS/SB 414</b> Health Policy / Grimsley (Similar CS/H 863)	Hospice Services; Exempting certain hospice services in a not-for-profit retirement community from specified review and application requirements, etc.  HP     03/27/2017 Fav/CS CF     04/03/2017 Fav/CS RC	Fav/CS Yeas 5 Nays 0
3	<b>SB 570</b> Rouson (Similar CS/CS/H 23, Compare CS/H 1121, CS/S 1044)	Public Assistance; Revising penalties for noncompliance with work requirements for temporary cash assistance; requiring the Department of Economic Opportunity, in cooperation with CareerSource Florida, Inc., and the Department of Children and Families, to develop and implement a work plan agreement for participants in the temporary cash assistance program; requiring the Department of Children and Families to impose a replacement fee for electronic benefits transfer cards under certain circumstances, etc.  CF     04/03/2017 Fav/CS CM AHS AP	Fav/CS Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Monday, April 3, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 634</b> Campbell (Identical H 645, Compare H 7011, S 1756)	Involuntary Examinations Under the Baker Act; Authorizing physician assistants and advanced registered nurse practitioners to execute a certificate under certain conditions stating that he or she has examined a person and finds the person appears to meet the criteria for involuntary examination, etc.  HP 03/14/2017 Favorable CF 04/03/2017 Favorable JU RC	Favorable Yeas 5 Nays 0
5	<b>SB 1260</b> Bean (Compare CS/H 593)	Restrictions on Use of Public Assistance Benefits; Prohibiting the use of electronic benefits transfer cards to purchase soft drinks or candy; directing the Department of Children and Families to request a waiver to prohibit the use of Supplemental Nutrition Assistance Program benefits to purchase soft drinks or candy, etc.  CF 04/03/2017 Favorable AHS AP	Favorable Yeas 4 Nays 1
6	<b>SB 1680</b> Baxley (Similar H 7075)	Child Welfare; Extending court jurisdiction to age 22 for young adults with disabilities in foster care; requiring a transition plan to be approved before a child reaches 18 years of age; requiring the Department of Children and Families, in collaboration with certain entities, to develop a statewide quality rating system for residential group care providers and foster homes, etc.  CF 04/03/2017 Fav/CS AHS AP	Fav/CS Yeas 5 Nays 0
7	<b>SB 1756</b> Garcia (Compare H 645, H 1327, H 7011, S 634)	Examination and Treatment of Individuals with Mental Illness; Providing responsibilities of the Department of Children and Families for a comprehensive statewide mental health and substance abuse program; revising rights of individuals receiving mental health treatment and services to provide for the use of health care surrogates or proxies to make decisions; designated receiving facilities to permit access authority to an agency designated by the Governor to serve as the federally mandated protection and advocacy system for individuals with disabilities, etc.  CF 04/03/2017 Fav/CS AHS AP	Fav/CS Yeas 4 Nays 0

Other Related Meeting Documents

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Monday, April 3, 2017, 1:30—3:30 p.m.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 200

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Passidomo

SUBJECT: Temporary Respite Care of a Child

DATE: April 4, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			JU	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 200 authorizes qualified nonprofit organizations to establish programs to assist parents in providing respite care for a period not to exceed 90 days for a child in times of family hardship. Only children who are not part of the child welfare system are eligible for care under this program.

The bill authorizes the parent of a minor child to execute a contract for care to delegate certain powers regarding the care and custody of the child to a volunteer respite family that is screened and trained by certain nonprofit organizations. The delegation does not change parental rights, obligations, or authority regarding custody, visitation, or support unless determined by a court to be in the best interests of the child. The bill includes various requirements to ensure child safety and requires notification to a parent who did not sign the contract for care.

The bill defines the terms “qualified association,” “qualified nonprofit organization,” “temporary respite care” and “volunteer respite family,” provides a process for registering these qualified organizations in lieu of licensure, and requires level 2 background screening for employees of the organizations and family members who provide care. The bill requires the collection and retention of certain specified information.

The bill has no fiscal impact on state or local government.

The bill has an effective date of July 1, 2017.

## II. Present Situation:

### Safe Families Model

Sometimes, parents encounter a hardship and are unable to adequately deal with both that situation and parenting at the same time due to the lack of family or other support system.<sup>1</sup> This type of social isolation combined with the stress of a crisis can increase the likelihood of child abuse, often through child neglect. Furthermore, homelessness, unemployment, domestic violence, illness, mental health issues, and substance addiction can all lead to situations in which a parent must choose between addressing the immediate situation and adequate care of his or her child.<sup>2</sup>

In 2002, the Safe Families for Children (SFFC) program created a model in which parents in crisis without family or other support had a place to go for help without entering the child welfare system.<sup>3</sup> The model includes placing a child with an unpaid volunteer host family, allowing a parent the time and space to deal with whatever issues brought them to SFFC. By temporarily placing the child with a host family, SFFC hopes to reduce the risk of child abuse and neglect, as well as provide a safe place for a child.<sup>4</sup>

SFFC states that it has three main objectives: child welfare deflection, child abuse prevention, and family support and stabilization.<sup>5</sup> SFFC reports that the hallmarks of the program are that parents retain full legal custody of children, volunteer families are extensively screened and supported, the average length of stay is 6 weeks (ranging from 2 days to 1 year), there is a close working relationship between the Safe Families organization, local churches, and the referring organization, and that the model is committed to reuniting the family as soon as possible.<sup>6</sup>

Programs based on the SFFC model are active in 70 cities in the U.S., Canada, and the U.K.<sup>7</sup> SFFC models operate in three Florida areas: Naples, Orlando, and Tampa Bay.<sup>8</sup>

### *Licensure*

DCF licenses most out-of-home placements, including family foster homes, residential child-caring agencies (residential group care), and child-placing agencies.<sup>9</sup> The following placements do not require licensure:

- Relative caregivers;
- Non-relative caregivers;

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<sup>1</sup> Safe Families for Children, How Safe Families Works, available at: <http://safe-families.org/about/how-safe-families-works/> (last visited March 29, 2017).

<sup>2</sup> Safe Families for Children, Frequently Asked Questions, available at: <http://safe-families.org/about/faq/> (last visited March 29, 2017).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Safe Families for Children, Who we help, available at: [http://www.safe-families.org/whatis\\_whoehelp.aspx](http://www.safe-families.org/whatis_whoehelp.aspx). (last visited March 29, 2017).

<sup>6</sup> *Id.*

<sup>7</sup> Safe Families for Children, About Us, available at: <http://safe-families.org/about/> (last visited March 29, 2017).

<sup>8</sup> Safe Families for Children, Locations, available at: <http://safe-families.org/about/locations/> (last visited March 29, 2017).

<sup>9</sup> Section 409.175, F.S.

- An adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption; and
- Persons or neighbors who care for children in their homes for less than 90 days.<sup>10</sup>

Licensure involves meeting rules and regulations pertaining to:

- The good moral character of personnel and foster parents based on background screening, education, training, and experience requirements;
- Operation, conduct, and maintenance;
- The provision of food, clothing, educational opportunities, services, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of the children served;
- The appropriateness, safety, cleanliness, and general adequacy of the premises, including fire prevention and health standards, to provide for the physical comfort, care, and well-being of the children served;
- The ratio of staff to children required to provide adequate care and supervision of the children served; and
- In the case of foster homes, the maximum number of children in the home.<sup>11</sup>

These licensure standards are the minimum requirements that must be met to care for children within the child welfare system. DCF must issue a license for those homes and agencies that meet the minimum licensure standards.<sup>12</sup>

## **Background Screening**

### ***Volunteer and Employee Criminal History System***

The Volunteer and Employee Criminal History System (VECHS) program was implemented in 1999 and is authorized by the National Child Protection Act (NCPA) and s. 943.0542, F.S. The VECHS program provides a means to background screen the employees and volunteers of organizations who work with vulnerable individuals but who are not required by law to be background screened. Examples of organizations that may use VECHS are churches and volunteer organizations that serve children, the elderly or persons with disabilities but are not licensed or contracted by the state.

Through the VECHS program, FDLE and the FBI provide state and national criminal history record information on applicants, employees, and volunteers to qualified organizations (not individuals or state agencies) in Florida. With this criminal history information, the organizations can more effectively screen out those current and prospective volunteers and employees who are not suitable for contact with children, the elderly, or persons with disabilities.<sup>13</sup>

Unlike screenings under the Care Provider Background Screening Clearinghouse in chapter 435, F.S., screenings through the VECHS program are not actively monitored. The screenings provide

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Florida Department of Law Enforcement, Volunteer and Employee Background checks, *available at*: <http://www.fdle.state.fl.us/cms/Background-Checks/VECHS-Home.aspx>. (last visited March 29, 2017).

a snapshot in time of that particular employee or volunteer's criminal record at the time the screen is completed. Any arrest or judicial action after that screening is completed is unknown. Additionally, the organization receiving the screening results makes its own determination of whether to employ the individual or use the volunteer based on its own standards.

### ***Level 2 Background Screening***

A level 2 background screening includes but is not limited to fingerprinting for statewide criminal history records checks through the Florida Department of Law Enforcement (FDLE) and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>14</sup> The applicant has fingerprints taken by a vendor that submits the electronic fingerprints to FDLE for DCF. FDLE then runs statewide checks and submits the electronic file to the FBI for national checks.

Once the background screening is completed, and FDLE receives the information from the FBI, the criminal history information is transmitted to DCF. DCF then determines if the screening contains any disqualifying information for employment. DCF must ensure that no applicant has been arrested for, is awaiting final disposition of, has been found guilty of, or entered a plea of nolo contendere or guilty to any prohibited offense including, but not limited to, such crimes as sexual misconduct, murder, assault, kidnapping, arson, exploitation, lewd and lascivious behavior, drugs, and domestic violence.<sup>15</sup> If the department finds that an individual has a history containing any of these offenses, they must disqualify that individual from employment under chapter 435, F.S.

### **Liability and Insurance**

Should a child become ill or injured while in the care of a SFFC volunteer host family, the host family may have limited personal liability pursuant to the federal Volunteer Protection Act<sup>16</sup> (VPA) and Florida Volunteer Protection Act<sup>17</sup> (FVPA). The VPA provides that a volunteer of a nonprofit organization is not liable for harm caused by his or her act or omission if:

- The volunteer was acting within the scope of his or her responsibilities for the organization; and
- The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer.<sup>18</sup>

The FVPA also provides immunity from civil liability if the volunteer was acting with good faith within the scope of his or her duties, as an ordinary reasonable person would have acted under the same or similar circumstances, and the harm was not caused by wanton or willful misconduct.<sup>19</sup> Neither the VPA nor the FVPA provide immunity to the nonprofit organization itself.

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<sup>14</sup> Section 435.04, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Volunteer Protection Act of 1997, 42 U.S.C. s. 14501 et seq.

<sup>17</sup> Section 768.1355, F.S.

<sup>18</sup> 42 U.S.C. s. 14503.

<sup>19</sup> Section 768.1355(1), F.S.



### III. Effect of Proposed Changes:

**Section 1** creates s. 409.1761, relating to organizations providing temporary respite care for children not in the welfare system, to authorize qualified nonprofit organizations to establish programs to assist parents in providing respite care for a child in times of family hardship. Only children who are not part of the child welfare system are eligible for care under this program.

The bill authorizes the parent of a minor child to execute a contract for care to delegate certain powers regarding the care and custody of the child to a volunteer respite family that is screened and trained by certain nonprofit organizations. The delegation does not change parental rights, obligations, or authority regarding custody, visitation, or support unless determined by a court to be in the best interests of the child. The bill includes various requirements to ensure child safety and requires notification to a parent who did not sign the contract for care.

The bill defines the terms “qualified association,” “qualified nonprofit organization,” “temporary respite care” and “volunteer respite family,” provides a process for registering these qualified organizations in lieu of licensure, and requires level 2 background screening for employees of the organizations and family members who provide care. The bill requires the collection and retention of certain specified information.

**Section 2** provides an effective date of July 1, 2017.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The proposed legislation requires a qualified nonprofit organization to complete a criminal history record check on certain individuals at \$38.75 per individual. Also, additional fees may be charged by each live scan provider for their services. It requires the retention of fingerprints, which for each individual is a yearly fee of \$6.00.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates s. 409.1761 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs Committee on April 3, 2017:**

- Limits the length of time a child may be in temporary respite care to 90 days;
- Specifies the criteria making a child ineligible for care under this program;
- Expands and clarifies the duties of the qualified nonprofit organization;
- Removes the ability of legal guardians to contract for the care of a child;
- Expands and clarifies contents of a contract for care; and
- Provides for notification to a parent who does not sign a contract for care.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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The Committee on Children, Families, and Elder Affairs  
(Passidomo) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 409.1761, Florida Statutes, is created  
to read:

409.1761 Organizations providing temporary respite care for  
children not in the child welfare system.— The Legislature finds  
that in circumstances in which a parent of a minor child is



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11 temporarily unable to provide care for the child, but does not  
12 need the full support of the child welfare system, a less  
13 intrusive alternative to supervision by the department or  
14 involvement by the judiciary should be available.

15 (1) DEFINITIONS.—As used in this section, the term:

16 (a) "Qualified association" means an association that:

17 1. Publishes and requires compliance with its standards and  
18 files copies thereof with the department as provided in s.  
19 409.176(5)(b); and

20 2. Establishes, publishes, and requires compliance with  
21 best practice standards for operating a program that assists  
22 parents in providing temporary respite care for a child by a  
23 volunteer respite family.

24 (b) "Qualified nonprofit organization" or "organization"  
25 means a Florida private nonprofit organization that assists  
26 parents in providing temporary respite care for a child by a  
27 volunteer respite family under an agreement with a qualified  
28 association.

29 (c) "Temporary respite care" means care provided to a child  
30 by a volunteer respite family in their home for a period of time  
31 that is not to exceed 90 days in order to provide temporary  
32 relief to parents who are unable to care for a child.

33 (d) "Volunteer respite family" means an individual or a  
34 family who voluntarily agrees to provide without compensation,  
35 temporary care for a period of time no longer than 90 days for a  
36 child under a contract for care with the child's parent with the  
37 assistance of a qualified nonprofit organization.

38 (2) ESTABLISHMENT OF THE PROGRAM.— A qualified nonprofit  
39 organization may establish a program that assists parents in



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40 providing temporary respite care for a child by a volunteer  
41 respite family.

42 (a) A child is eligible for the program if he or she:

43 1. Has not been removed from the child's parent due to  
44 abuse or neglect and placed in the custody of the department;

45 2. Is not the subject of an ongoing department  
46 investigation of abuse, abandonment, or neglect;

47 3. Has not been the subject of a verified report of abuse,  
48 abandonment or neglect; or

49 4. Is the subject of an open court in-home dependency case  
50 and under protective supervision of the department.

51 (b) Placement of a child under this section, in the absence  
52 of evidence to the contrary, does not constitute abuse, neglect,  
53 or abandonment as defined in s. 39.01 and is not considered to  
54 be placement of the child in foster care. However, the  
55 department may refer a child to an organization's program if the  
56 department determines that the needs of the child or the needs  
57 of the child's parent do not require an out-of-home safety plan  
58 pursuant to s. 39.301(9) or other formal involvement of the  
59 department and that the child and the child's family may benefit  
60 from the temporary respite care and services provided by the  
61 organization.

62 (3) DUTIES OF A QUALIFIED NONPROFIT ORGANIZATION.— A  
63 qualified nonprofit organization that provides temporary respite  
64 care to children under this section shall:

65 (a) Establish its program under an agreement or  
66 certification with a qualified association.

67 (b) Verify that the department has conducted background  
68 screenings under s. 409.175 and chapter 435 of the following



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69 persons before such persons have contact with a child:

70 1. Employees of the organization who will have direct  
71 contact with children while assisting parents in providing  
72 temporary respite care.

73 2. Members of the volunteer respite family and persons  
74 residing in the volunteer respite home who are 12 years of age  
75 or older. However, members of a volunteer respite family and  
76 persons residing in the volunteer respite home who are between  
77 the ages of 12 years and 18 years are not required to be  
78 fingerprinted but must be screened for delinquency records.

79 (c) Train all volunteer respite families. The training must  
80 include:

81 1. A discussion of the rights, duties, and limitations in  
82 providing temporary care for a child;

83 2. An overview of program processes, including intake  
84 triage processes;

85 3. Working with third party service providers, including  
86 schools and medical professionals;

87 4. General safety requirements, including the prevention of  
88 sudden unexplained death syndrome, proper supervision of  
89 children, and water and pool safety;

90 5. Instruction on appropriate and constructive disciplinary  
91 practices, including the prohibition of physical punishment and  
92 discipline that is severe, humiliating, or frightening, or is  
93 associated with the deprivation of food, rest, or toileting;

94 6. Abuse and maltreatment reporting requirements, including  
95 proper cooperation with the department;

96 7. Confidentiality; and

97 8. Building a healthy relationship with a child's parents.



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98           (d) Be solely responsible for ongoing supervision of each  
99 child placed with a volunteer respite family.

100           (e) Maintain records on each volunteer respite family and  
101 96 child served, including, but not limited to:

102           1. The name and age of the child;

103           2. The name, address, telephone number, e-mail address, and  
104 other contact information for the child's parents;

105           3. The name, address, telephone number, e-mail address, and  
106 other contact information for the child's volunteer respite  
107 family;

108           4. A copy of the contract for care executed pursuant to  
109 this section; and

110           5. Proof that the volunteer respite family has met all the  
111 personnel screening requirements conducted by the  
112 department under this section.

113           (f) Provide the following information to the department on  
114 an annual basis:

115           1. The name, address, telephone number, e-mail address, and  
116 other contact information of the organization.

117           2. The name of the organization's director.

118           3. The names and addresses of the officers and members of  
119 the governing body.

120           4. The total number of volunteer respite families currently  
121 working with the organization and the total number of children  
122 who were provided temporary respite care in the previous fiscal  
123 year.

124           5. A copy of its agreement or certification with a  
125 qualified association for the purpose of providing volunteer  
126 respite services pursuant to this section.



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127 (g) Provide the qualified association with data and other  
128 information as required by the qualified association to  
129 demonstrate that the qualified nonprofit organization is in  
130 substantial compliance with the minimum best practice standards  
131 published by the qualified association.

132 (h) Immediately notify the department of any suspected or  
133 confirmed incident of abuse, neglect, or other maltreatment of a  
134 child while in the care of a volunteer respite family.

135 (i) Make available to the department or qualified  
136 association at any time for inspection all records relating to  
137 the program and children cared for by the organization's  
138 volunteer respite families to ensure compliance with this  
139 section and standards established by any entity with which the  
140 organization is affiliated.

141 (3) CONTRACT FOR CARE.— All parents of a child must enter  
142 into a written contract with the qualified association for the  
143 provision of temporary respite care of the child under this  
144 section. The contract for care may not exceed 90 days in  
145 duration and may not be extended.

146 (a) The contract must be executed before, or at the time,  
147 the child is placed with a volunteer respite family and  
148 organization. Through the contract for care, the parent may  
149 delegate to the volunteer respite family any of the powers  
150 regarding the care and custody of the child, except the power to  
151 consent to the marriage or adoption of the child, the  
152 performance or inducement of an abortion on the child, or the  
153 termination of parental rights regarding the child.

154 Authorization for the volunteer respite family to consent to  
155 routine and emergency medical care on behalf of the parent shall





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156 be granted only upon the separate consent of the parent pursuant  
157 to s. 743.0645. The contract for care must at a minimum:

158 1. Be signed by the parent or both parents if both parents  
159 are living and have shared responsibility and timesharing of the  
160 child pursuant to law or a court order. Notification to a parent  
161 whose parental rights have been terminated is not required.

162 2. Be signed by all members of the volunteer respite family  
163 who are 18 years of age or older.

164 3. Be signed by the representative of the organization who  
165 assisted with the child's placement with the volunteer respite  
166 family.

167 4. Be signed by two subscribing witnesses.

168 (b) The contract for care must include:

169 1. A statement that the contract does not deprive the  
170 parent of any parental or legal authority regarding the care and  
171 custody of the child or supersede a court order regarding the  
172 care and custody of the child.

173 2. A statement that the contract may be revoked or  
174 withdrawn at any time by the parent and that custody of the  
175 child shall be returned to the parent as soon as reasonably  
176 possible.

177 3. The basic services and accommodations provided by the  
178 volunteer respite family and organization.

179 4. Identification of the child, the parent, and the members  
180 of the volunteer respite family, including contact information  
181 for all parties.

182 5. Identification of the organization, including contact  
183 information for the organization and the representative who  
184 assisted with the child's placement.



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185       6. A statement regarding disciplinary procedures that are  
186 used by the volunteer respite family and expectations regarding  
187 interactions between the volunteer respite family and the child.  
188 The statement must identify the child's known behavioral or  
189 emotional issues and how such issues are addressed by the  
190 child's parent.

191       7. A statement of the minimum expected frequency of contact  
192 between the parent and the child, expectations for the volunteer  
193 respite family to facilitate any reasonable request for contact  
194 with the child outside of the established schedule, and the  
195 minimum expected frequency of contact between the parent and the  
196 volunteer respite family to discuss the child's well-being and  
197 health.

198       8. A statement regarding the child's educational needs,  
199 including the name and address of the child's school and the  
200 names of the child's teachers.

201       9. A list of extracurricular, religious, or community  
202 activities and programs in which the child participates.

203       10. A list of any special dietary or nutritional  
204 requirements of the child.

205       11. A description of the child's medical needs, including  
206 any diagnoses, allergies, therapies, treatments, or medications  
207 prescribed to the child and the expectations for the volunteer  
208 respite family to address such medical needs.

209       12. A statement that the volunteer respite family agrees to  
210 act in the best interests of the child and to consider all  
211 reasonable wishes and expectations of the parent concerning the  
212 care and comfort of the child.

213       13. A statement that all appropriate members of the



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214 volunteer respite family have successfully met the personnel  
215 screening requirements pursuant to paragraph ) (b) .

216 14. An expiration date for each contract for care, which  
217 may not exceed 90 days in duration.

218 15. A statement that the goal of the organization,  
219 volunteer respite family, and parent is to return the child  
220 receiving temporary respite care to the parent as soon as the  
221 situation requiring such care has been resolved.

222 16. A requirement that the volunteer respite family  
223 immediately notify the parent of the child's need for medical  
224 care.

225 (c) The parent may revoke or withdraw the contract for care  
226 at any time, and the child shall be returned immediately to the  
227 custody of the parent. A contract for care executed under this  
228 section expires automatically after 90 days and may not operate  
229 to deprive a parent of any parental or legal authority regarding  
230 the care and custody of the child or supersede a court order  
231 regarding the care and custody of the child.

232 (d) If all parents do not sign the contract for care, the  
233 organization must, prior to the child's placement with a  
234 voluntary respite family:

235 1. Secure a notarized Consent for Placement with Volunteer  
236 Respite Family executed by the parent who did not sign the  
237 contract for care. The Consent for Placement with Volunteer  
238 Respite Family must contain each term set forth in the contract  
239 for care as required in this subsection and an advisory that the  
240 parent may elect to object to the contract for care and take  
241 custody of the child pursuant to the provision of Florida law,  
242 or



256730

243 2. Personally serve the parent who did not sign the  
244 contract for care with a Petition for Dependency pursuant to  
245 Chapter 39 setting forth grounds to establish that the parent  
246 has abandoned, abused or neglected the child.

247 (4) NOTIFICATION REQUIREMENTS -Any organization that is  
248 registered with a qualified association shall immediately notify  
249 the department if it has in its care:

250 (a) A child with a serious developmental disability or a  
251 physical, emotional, or mental handicap for which the  
252 organization is not qualified or able to provide care; or

253 (b) A child who has not been returned to a parent when the  
254 contract expires.

255 (5) APPLICABILITY.-Placement of a child under this section  
256 without additional evidence does not constitute abandonment,  
257 abuse, or neglect, as defined in s. 39.01, and is not considered  
258 to be placement of the child in foster care.

259 However, nothing in this section prevents the department or a  
260 law enforcement agency from investigating allegations of  
261 abandonment, abuse, neglect, unlawful desertion of a child, or  
262 human trafficking.

263 Section 2. This act shall take effect July 1, 2017.

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

265 And the title is amended as follows:

266 Delete everything before the enacting clause  
267 and insert:

268 A bill to be entitled  
269 An act relating to the temporary respite care of a  
270 child; creating s. 409.1761, F.S.; providing  
271 legislative findings; providing definitions;



256730

272 authorizing qualified nonprofit organizations to  
273 establish programs to provide temporary respite care  
274 for children; providing duties and recordkeeping  
275 requirements for such organizations; providing  
276 screening requirements for certain persons; requiring  
277 notification to the Department of Children and  
278 Families under certain circumstances; authorizing a  
279 volunteer respite family to enter into a contract for  
280 care to provide temporary respite care for a child;  
281 specifying the duration of a contract for care;  
282 specifying the form and execution of the contract;  
283 authorizing inspection of documents by the Department  
284 of Children and Families; providing eligibility;  
285 authorizing the department to refer a child for such  
286 care; providing applicability;; providing an effective  
287 date.



105330

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/03/2017	.	
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The Committee on Children, Families, and Elder Affairs  
(Passidomo) recommended the following:

**Senate Amendment to Amendment (256730)**

Delete line 49

and insert:

4. Is not the subject of an open court in-home dependency  
case

By Senator Passidomo

28-00071-17

2017200\_\_

A bill to be entitled

An act relating to the temporary respite care of a child; creating s. 409.1761, F.S.; defining terms; authorizing certain organizations to establish programs for the purpose of assisting parents and legal guardians in providing temporary respite care for a child; restricting care to specified children; providing that placement of a child in temporary respite care does not, in the absence of evidence to the contrary, constitute abuse, neglect, or abandonment or placement in foster care; authorizing the Department of Children and Families to refer children to such programs under certain circumstances; providing requirements for an organization to register with a qualified association; requiring collection and retention of specified information; providing an exemption from specified licensure requirements under certain circumstances; requiring notification of specified information to the department; providing applicability; requiring background screening of specified persons; providing exceptions; requiring parents or legal guardians to enter into a contract for care as a condition of participation in the program; providing requirements for such contracts; requiring a separate authorization for certain care; providing an effective date.

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

Section 1. Section 409.1761, Florida Statutes, is created to read:  
409.1761 Organizations providing temporary respite care for

Page 1 of 7

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

28-00071-17

2017200\_\_

children not in the child welfare system.-

(1) DEFINITIONS.-As used in this section, the term:

(a) "Qualified association" means an association that:

1. Publishes and requires compliance with its standards and files copies thereof with the department as provided in s. 409.176(5)(b); and

2. Establishes, publishes, and requires compliance with best practice standards for operating a program that assists parents and legal guardians in providing temporary respite care for a child by a volunteer respite family.

(b) "Qualified nonprofit organization" or "organization" means a Florida private nonprofit organization that assists parents and legal guardians in providing temporary respite care for a child by a volunteer respite family under an agreement with a qualified association.

(c) "Volunteer respite family" means an individual or a family who voluntarily agrees to provide temporary care for a child under a contract for care with the child's parent or legal guardian with the assistance of a qualified nonprofit organization.

(2) QUALIFIED NONPROFIT ORGANIZATION.-A qualified nonprofit organization may establish a program that assists parents and legal guardians in providing temporary respite care for a child by a volunteer respite family. Only a child who has not been removed from the child's parent or legal guardian due to abuse or neglect and placed in the custody of the department is eligible to be cared for under this section. Placement of a child under this section, in the absence of evidence to the contrary, does not constitute abuse, neglect, or abandonment as

Page 2 of 7

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

28-00071-17 2017200\_\_

62 these terms are defined in s. 39.01 and is not considered to be  
 63 placement of the child in foster care. However, the department  
 64 may refer a child to an organization's program if the department  
 65 determines that the services are appropriate for addressing the  
 66 needs of a family in crisis, preventing the child from being  
 67 placed in the custody of the department, or achieving  
 68 reunification of the child with his or her biological family.

69 (a) Registration.—A qualified nonprofit organization that  
 70 provides temporary respite care to children under this section  
 71 shall annually register with a qualified association.

72 1. In order to register, the organization must provide each  
 73 year to the qualified association:

74 a. The name and address of the organization; the names and  
 75 addresses of the officers and the members of the board of  
 76 directors or other governing body of the organization, as  
 77 applicable; the name of the person in charge of the  
 78 organization; and proof that the organization and its volunteer  
 79 respite families are in compliance with the minimum health,  
 80 sanitary, and safety standards required by applicable state law  
 81 or local ordinance, the uniform firesafety standards required by  
 82 chapter 633, and the personnel screening requirements in s.  
 83 409.175 and chapter 435; and

84 b. The relevant data on the services provided by the  
 85 organization, including the organization's capacity and the  
 86 number of approved volunteer respite families; the number and  
 87 ages of children being cared for through the organization, the  
 88 number of children who have left the care of the organization  
 89 during the past year, the length of stay of each child, and the  
 90 reason for each child's care; and the names of all personnel.

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91 2. Upon verification that all requirements for registration  
 92 have been met, the qualified association shall, without charge,  
 93 issue a certificate of registration valid for 1 year.

94 (b) Collection and retention of information and  
 95 documentation.—

96 1. An organization shall collect and maintain, at a  
 97 minimum, the following information and documentation for each  
 98 child to whom it provides temporary respite care:

99 a. The name and age of the child;

100 b. The name, address, and contact information for the  
 101 child's parent or legal guardian;

102 c. The name, address, and contact information of the  
 103 child's volunteer respite family;

104 d. A copy of the contract for care of the child executed  
 105 pursuant to subsection (3); and

106 e. Proof of the volunteer respite family's compliance with  
 107 the personnel screening requirements in s. 409.175 and chapter  
 108 435.

109 2. An organization shall maintain on site and provide, upon  
 110 request, proof that the organization is in compliance with  
 111 published minimum standards that are filed by the qualified  
 112 association with the department as provided in s. 409.176(5)(b).  
 113 The qualified association has the right to access and review the  
 114 organization's files at any time to ensure compliance with this  
 115 section and the standards established by the qualified  
 116 association.

117 (c) Exemption from licensure.—The licensing provisions of  
 118 s. 409.175 do not apply to a qualified nonprofit organization  
 119 under this section. However, such organizations and their



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120 volunteer respite families must meet the personnel screening  
 121 requirements in s. 409.175 and chapter 435.

122 (d) Notification requirements.—Any organization that is  
 123 registered with a qualified association shall immediately notify  
 124 the department if it has in its care a child with a serious  
 125 developmental disability or a physical, emotional, or mental  
 126 handicap for which the organization is not qualified or able to  
 127 provide care.

128 (e) Applicability.—The provisions of chapter 39 regarding  
 129 the reporting of child abuse, abandonment, and neglect apply to  
 130 any organization registered with a qualified association.

131 (f) Background screening.—A qualified nonprofit  
 132 organization shall conduct a screening, as that term is defined  
 133 in s. 409.175, of each individual identified in subparagraph 2.

134 1. The department shall maintain and, upon request, shall  
 135 provide proof of compliance of the personnel of the organization  
 136 and the members and household of the volunteer respite families  
 137 with the screening requirements in s. 409.175 and chapter 435.

138 2. Individuals required to be screened under this section  
 139 include:

140 a. An employee of the organization who assists parents or  
 141 legal guardians in providing respite care;

142 b. A member of the family that is providing respite care  
 143 for a child, or a person residing with the family, who is at  
 144 least 12 years of age. A person who is 12 years of age or older  
 145 but younger than 18 years of age must be screened for  
 146 delinquency records, but is not required to be fingerprinted;  
 147 and

148 c. A volunteer who assists on an intermittent basis for

28-00071-17

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149 less than 10 hours per month, unless a person who meets the  
 150 screening requirements in s. 409.175 and chapter 435 is present  
 151 and has the volunteer in his or her line of sight at all times.

152 (3) CONTRACT FOR CARE.—A parent or legal guardian of a  
 153 child must enter into a written contract with the qualified  
 154 association for the provision of temporary respite care of the  
 155 child under this section. The contract must be executed before,  
 156 or at the time, the child is placed with a volunteer respite  
 157 family and organization. Through the contract for care, the  
 158 parent or legal guardian may delegate to the volunteer respite  
 159 family any of the powers regarding the care and custody of the  
 160 child, except the power to consent to the marriage or adoption  
 161 of the child, the performance or inducement of an abortion on  
 162 the child, or the termination of parental rights regarding the  
 163 child. The parent or legal guardian may revoke or withdraw the  
 164 contract for care at any time, and the child shall be returned  
 165 to the custody of the parent or legal guardian as soon as  
 166 reasonably possible. A contract for care executed under this  
 167 section expires automatically after 1 year and may not operate  
 168 to deprive a parent or legal guardian of any parental or legal  
 169 authority regarding the care and custody of the child or  
 170 supersede a court order regarding the care and custody of the  
 171 child. Each contract must:

172 1. Enumerate the basic services and accommodations provided  
 173 by the volunteer respite family and organization.

174 2. Identify the child, parent or legal guardian, and  
 175 volunteer respite family, including necessary contact  
 176 information for all parties.

177 3. Identify the organization, including the address,

28-00071-17

2017200\_\_

178 telephone number, and primary point of contact.

179 4. Contain a clear statement regarding disciplinary  
180 procedures.

181 5. State that the goal of the organization is to return the  
182 child receiving respite care to the parent or legal guardian as  
183 soon as the situation requiring the need for care has been  
184 resolved.

185 6. Authorize the volunteer respite family to consent on  
186 behalf of the parent or legal guardian to routine and emergency  
187 medical care for the child. However, the volunteer respite  
188 family shall immediately notify the parent or legal guardian of  
189 medical care being provided to the child while the child is  
190 under the care of the volunteer respite family. Such  
191 authorization must be granted separately in the contract by the  
192 parent or legal guardian.

193 Section 2. This act shall take effect July 1, 2017.



105330

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/03/2017	.	
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	.	
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The Committee on Children, Families, and Elder Affairs  
(Passidomo) recommended the following:

**Senate Amendment to Amendment (256730)**

Delete line 49

and insert:

4. Is not the subject of an open court in-home dependency  
case

The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 200  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, April 3, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Office Building

FINAL VOTE		SENATORS	4/03/2017 <sup>1</sup> Amendment 105330		4/03/2017 <sup>2</sup> Amendment 256730			
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Artiles						
X		Broxson						
VA		Campbell						
X		Stargel						
		Torres, VICE CHAIR						
X		Garcia, CHAIR						
5	0	<b>TOTALS</b>	FAV	-	RCS	-		
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Committee Code Not Found

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BILL: CS/ CS/SB 414

INTRODUCER: Childen, Families, and Elder Affairs and Health Policy Committee and Senator Grimsley

SUBJECT: Hospice Services

DATE: April 4, 2017

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Looke</u>	<u>Stoval</u>	_____	<b>Fav/CS</b>
2. <u>Hendon</u>	<u>Hendon</u>	_____	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 414 creates a new exemption from the certificate of need process for the establishment of a hospice program that shares a controlling interest<sup>1</sup> with a not-for-profit retirement community that offers independent living, assisted living, and nursing home services at a teaching nursing home that has been designated as a teaching nursing home<sup>2</sup> for at least five years. The bill specifies that only one hospice program may be established per teaching nursing home under the exemption.

The bill would have an insignificant fiscal impact to the state and has an effective date of July 1, 2017.

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<sup>1</sup> Section. 408.803(7), F.S., defines “controlling interest” to mean the applicant or licensee; a person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the applicant or licensee; or a person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the management company or other entity, related or unrelated, with which the applicant or licensee contracts to manage the provider. The term does not include a voluntary board member.

<sup>2</sup> Section 430.80, F.S., defines “teaching nursing home” to mean a nursing home facility licensed under ch. 400, F.S., which contains a minimum of 170 licensed nursing home beds; has access to a resident senior population of sufficient size to support education, training, and research relating to geriatric care; and has a contractual relationship with a federally funded accredited geriatric research center in this state or operates in its own right a geriatric research center.

## II. Present Situation:

### Florida's Certificate of Need (CON) Program

#### *Overview*

In Florida, a CON is a written statement issued by the Agency for Health Care Administration (AHCA) evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or health service, including hospices. The Florida CON program has three levels of review: full, expedited and exempt.<sup>3</sup> Unless a project is exempt from the CON program, it must undergo a full comparative review. Expedited review is primarily targeted towards nursing home projects.

#### *Full CON Review Process*

Currently, prior to establishing a hospice or a hospice inpatient facility, an applicant is required to follow AHCA requirements for a full CON review.<sup>4</sup>

Full CON review is a lengthy process that starts with the AHCA determining need for a specific facility type or service. Upon determining that a need exists, AHCA accepts applications for CON based on batching cycles. At least 30 days prior to the application deadline for a batch cycle, an applicant must file a letter of intent with AHCA.<sup>5</sup> A letter of intent must describe the proposal, specify the number of beds sought, if applicable, and identify the services to be provided and the location of the project.<sup>6</sup> Applications for CON review must be submitted by the specified deadline for the particular batch cycle.<sup>7</sup> The AHCA must review the application within 15 days of the filing deadline and, if necessary, request additional information for an incomplete application.<sup>8</sup> The applicant then has 21 days to complete the application or it is deemed withdrawn from consideration.<sup>9</sup>

Within 60 days of receipt of the completed applications for that batch, the AHCA must issue a State Agency Action Report and Notice of Intent to grant a CON for a project in its entirety, to grant a CON for identifiable portions of a project, or to deny a CON for a project.<sup>10</sup> The AHCA must then publish the decision, within 14 days, in the Florida Administrative Register.<sup>11</sup> If no administrative hearing is requested within 21 days of the publication, the State Agency Action Report and the Notice of Intent become a final order of the AHCA.<sup>12</sup>

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<sup>3</sup> Section 408.036, F.S.

<sup>4</sup> Section 408.036(1)(d), F.S. However, s. 408.036(3)(a), F.S., establishes an exemption to this process for hospice services in a rural hospital.

<sup>5</sup> Section 408.039(2)(a), F.S.

<sup>6</sup> Section 408.039(2)(c), F.S.

<sup>7</sup> Rule 59C-1.008(1)(g), F.A.C.

<sup>8</sup> Section 408.039(3)(a), F.S.

<sup>9</sup> Id.

<sup>10</sup> Section 408.039(4)(b), F.S.

<sup>11</sup> Section 408.039(4)(c), F.S.

<sup>12</sup> Section 408.039(4)(d), F.S.

An applicant for CON review must submit a fee to the AHCA at the time of application submission. The minimum CON application filing fee is \$10,000.<sup>13</sup> In addition to the base fee, an applicant must pay a fee of .15 percent of each dollar of the proposed expenditure; however, the total fee may not exceed \$50,000.<sup>14</sup>

### *Hospice Need Calculations*

Need for a new hospice program is part of the applicant's review criteria pursuant to s. 408.035(1)(a), F.S. Need for a new hospice program can be identified through publication of the fixed need pool (pursuant to Rule 59C-1.0355(4), F.A.C.) or in the absence of numeric need the applicant must demonstrate that circumstances exist to justify approval of a new hospice program. Those circumstances must include documentation of a specific terminally ill population that is not being served or that a county/counties within the service area of a licensed hospice program are not being served.<sup>15</sup>

### *Exemptions from CON Review*

Section 408.036(3), F.S., provides many exemptions to CON review. Exempted projects must only submit an application for exemption to the AHCA and pay a \$250 fee.

### **Teaching Nursing Homes**

A teaching nursing home is a nursing home facility licensed under chapter 400 which contains a minimum of 170 licensed nursing home beds; has access to a resident senior population of sufficient size to support education, training, and research relating to geriatric care; and has a contractual relationship with a federally funded accredited geriatric research center in this state or operates in its own right a geriatric research center.<sup>16</sup> The AHCA is required to develop a program for the designation of teaching nursing homes and to be designated, a nursing home must:

- Provide a comprehensive program of integrated senior services that include institutional services and community-based services;
- Participate in a nationally recognized accrediting program and hold a valid accreditation, such as the accreditation awarded by the Joint Commission, or, at the time of initial designation, possess a Gold Seal Award as conferred by the state on its licensed nursing home;
- Have been in business in this state for a minimum of 10 consecutive years;
- Demonstrate an active program in multidisciplinary education and research that relates to gerontology;
- Have a formalized contractual relationship with at least one accredited health profession education program located in this state;
- Have senior staff members who hold formal faculty appointments at universities, which must include at least one accredited health profession education program; and

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<sup>13</sup> Section 408.038, F.S.

<sup>14</sup> Id.

<sup>15</sup> AHCA, *Senate Bill 414 Analysis*, (January 23, 2017) (on file with the Senate Committee on Health Policy).

<sup>16</sup> Section 403.80(1), F.S.

- Maintain insurance coverage pursuant to s. 400.141(1)(q), F.S., or proof of financial responsibility in a minimum amount of \$750,000. Such proof of financial responsibility may include:
  - Maintaining an escrow account consisting of cash or assets eligible for deposit; or
  - Obtaining and maintaining an unexpired, irrevocable, nontransferable and nonassignable letter of credit. The letter of credit shall be used to satisfy a final judgment indicating liability and awarding damages or a settlement agreement when such final judgment or settlement is a result of a liability claim against the facility.<sup>17</sup>

Additionally, a teaching nursing home must be primarily operated and established to offer, afford, and render a comprehensive multidisciplinary program of geriatric education and research to residents of the state and certify to the AHCA each school year the name, address, and educational history of each trainee approved and accepted for enrollment in the institution.<sup>18</sup>

Currently there are two nursing homes in the state designated as teaching nursing homes: Miami Jewish Health Systems (hospice service area 11, Miami-Dade County) and The Joseph L. Morse Health Center (hospice service area 9C, Palm Beach County).<sup>19</sup> Of the two, the controlling interest of the Joseph L. Morse Health Center has an open CON application with the AHCA to provide hospice services. The application was preliminarily denied on February 17, 2017, and the denial was timely appealed on March 10, 2017.<sup>20</sup>

### III. Effect of Proposed Changes:

CS/SB 414 creates a new exemption from the CON process for the establishment of a hospice program that shares a controlling interest<sup>21</sup> with a not-for-profit retirement community that offers independent living, assisted living, and nursing home services at a teaching nursing home that has been designated as a teaching nursing home<sup>22</sup> for at least five years. The bill specifies that only one hospice program may be established per teaching nursing home under the exemption. The hospice program can only serve patients residing in the not-for-profit retirement community.

The bill has an effective date of July 1, 2017.

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<sup>17</sup> Section 403.80(3)(a)-(g), F.S.

<sup>18</sup> Section 430.80(6)(a) and (b), F.S.

<sup>19</sup> Supra note 15.

<sup>20</sup> Id.

<sup>21</sup> Section 408.803(7), F.S., defines “controlling interest” to mean the applicant or licensee; a person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the applicant or licensee; or a person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the management company or other entity, related or unrelated, with which the applicant or licensee contracts to manage the provider. The term does not include a voluntary board member.

<sup>22</sup> Section 430.80, F.S., defines “teaching nursing home” to mean a nursing home facility licensed under ch. 400, F.S., which contains a minimum of 170 licensed nursing home beds; has access to a resident senior population of sufficient size to support education, training, and research relating to geriatric care; and has a contractual relationship with a federally funded accredited geriatric research center in this state or operates in its own right a geriatric research center.



**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

CS/SB 414 may have a positive fiscal impact on a non-profit retirement community that is able to provide hospice services under the new exemption without first obtaining a CON from the AHCA due to eliminating the requirement to pay fees associated with obtaining a CON and due to being able to provide hospice services in an area where the AHCA may or may not have determined a need for such services.

The bill may have a negative fiscal impact on existing hospices in a service area where this exemption is applied due to a loss of patients that begin using the new hospice.

## C. Government Sector Impact:

The bill may have a fiscal impact of approximately \$35,000 to the AHCA due to loss of revenues from the CON application fees if both providers applied for the CON exemption.<sup>23</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

It is unclear what entities the bill is referring to with the term “not-for-profit retirement communities.” This term might need further clarification.<sup>24</sup>

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<sup>23</sup> Supra note 15.

<sup>24</sup> Supra note 15.

**VIII. Statutes Affected:**

This bill substantially amends section 408.036 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy on March 27, 2017:**

The CS narrows the applicability of the CON exemption created by the bill by:

- Requiring the not-for-profit retirement community to offer independent living, assisted living, and nursing home services at a teaching nursing home that has been designated as a teaching nursing home for at least 5 years; and
- Specifying that only one hospice program may be offered per teaching nursing home;

The CS also clarifies the language of the bill and makes technical corrections.

**CS by Children, Families, and Elder Affairs on April 3, 2017:**

The CS limits the hospice services to patients residing in the not-for-profit retirement community.

- B. **Amendments:**

None.



379590

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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The Committee on Children, Families, and Elder Affairs  
(Grimsley) recommended the following:

**Senate Amendment**

Delete line 29  
and insert:  
established under the exemption in this paragraph, and such  
program shall be limited to serving patients residing in  
communities located within the not-for-profit retirement  
community, including home and community-based service providers.

By the Committee on Health Policy; and Senator Grimsley

588-02953-17

2017414c1

1 A bill to be entitled  
 2 An act relating to hospice services; amending s.  
 3 408.036, F.S.; exempting certain hospice services in a  
 4 not-for-profit retirement community from specified  
 5 review and application requirements; providing an  
 6 effective date.  
 7  
 8 Be It Enacted by the Legislature of the State of Florida:  
 9  
 10 Section 1. Paragraph (a) of subsection (3) of section  
 11 408.036, Florida Statutes, is amended to read:  
 12 408.036 Projects subject to review; exemptions.—  
 13 (3) EXEMPTIONS.—Upon request, the following projects are  
 14 subject to exemption from the provisions of subsection (1):  
 15 (a) For hospice services or for swing beds in a rural  
 16 hospital, as defined in s. 395.602, in a number that does not  
 17 exceed one-half of its licensed beds, or for a hospice program  
 18 established by an entity that shares a controlling interest, as  
 19 defined in s. 408.803, with a not-for-profit retirement  
 20 community that offers all of the following:  
 21 1. Independent living.  
 22 2. Assisted living.  
 23 3. Nursing home services located on the same premises as a  
 24 nursing home facility designated by the agency as a teaching  
 25 nursing home for a minimum of 5 years in accordance with s.  
 26 430.80.  
 27  
 28 Only one hospice program per teaching nursing home may be  
 29 established under the exemption in this paragraph.

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

588-02953-17

2017414c1

30 Section 2. This act shall take effect July 1, 2017.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** CS/SB 414  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, April 3, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Office Building

FINAL VOTE		SENATORS	4/03/2017 1 Amendment 379590					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Artiles						
X		Broxson						
X		Campbell						
VA		Stargel						
		Torres, VICE CHAIR						
X		Garcia, CHAIR						
5	0	<b>TOTALS</b>	RCS	-				
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable    RCS=Replaced by Committee Substitute    TP=Temporarily Postponed    WD=Withdrawn  
 UNF=Unfavorable    RE=Replaced by Engrossed Amendment    VA=Vote After Roll Call    OO=Out of Order  
 -R=Reconsidered    RS=Replaced by Substitute Amendment    VC=Vote Change After Roll Call    AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 570

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Rouson

SUBJECT: Public Assistance

DATE: April 4, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	<b>Fav/CS</b>
2.			CM	
3.			AHS	
4.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 570 makes changes to the state's cash assistance program under Temporary Assistance for Needy Families to improve compliance with work requirements. The bill requires agencies assisting recipients to develop a work plan agreement with the recipient to ensure he or she understands the work requirements. The bill imposes a fee on the recipient for replacement electronic benefit cards under certain circumstances. The bill clarifies state law to prohibit relative caregiver payments when both the parent and the child lives with a relative. The bill directs the Office of Program Policy Analysis and Government Accountability to conduct a study of workforce development efforts for TANF recipients.

The bill is not expected to have a fiscal impact to the state and has an effective date of July 1, 2017.

**II. Present Situation:**

The Temporary Assistance for Needy Families (TANF) is a block grant that provides federal funding to states for a wide range of benefits and activities to support indigent families. It is best known for providing cash assistance to needy families with children. The TANF program was created in the 1996 welfare reform law as part of the Personal Responsibility and Work

Opportunity Reconciliation Act.<sup>1</sup> In Florida, the 1996 legislature passed the Work and Gain Economic Self-Sufficiency Act in anticipation of passage of federal welfare reform. The Department of Children and Families (DCF) refers to the benefits from TANF as Temporary Cash Assistance.

The purpose of TANF is to:

- To provide assistance to needy families with children so that they can live in their own home or the homes of relatives;
- To end the dependency of needy parents on government benefits through work, job preparation, and marriage;
- To reduce the incidence of out-of-wedlock pregnancies; and
- To promote the formation and maintenance of two-parent families.<sup>2</sup>

### **Eligibility**

Florida law specifies two major categories of families who may be eligible for TANF cash assistance, those families that are work-eligible, and those child-only cases.<sup>3</sup> While many of the basic eligibility requirements apply to all of these categories, there are some distinctions between the categories in terms of requirements and restrictions.

#### Work-Eligible Cases

Within the TANF work-eligible cases, there are single parent families and two-parent families. Single parent families can receive cash assistance for the parent and the children. The parent is subject to all of the financial and non-financial requirements described below including the work requirements and time limits. Single parents with a child under age six meet the participation rate with 20 hours of work participation per week.

Two-parent families with children are eligible on the same basis as single-parent families except the work requirement for two-parent families includes a higher number of hours of participation per week (35 hours or 55 hours if child care is subsidized) than required for single-parent families (30 hours).

#### Child-Only Cases

There are two child-only types of TANF cases. The first is where the child is living with a relative or situations where a custodial parent is not eligible to be included in the eligibility group.<sup>4</sup> In the majority of situations, the child is living with a grandparent or other relative. Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to their immigration status. Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

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<sup>1</sup> Temporary Assistance for Needy Families, An Overview of Program Requirements. January 2016. Department of Children and Families. <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf>.

<sup>2</sup> U.S. Department of Health and Human Services, see <http://www.acf.hhs.gov/programs/ofa/programs/tanf/about> (last visited March 29, 2017).

<sup>3</sup> s. 414.045(1), Florida Statutes.

<sup>4</sup> Temporary Assistance for Needy Families, An Overview of Program Requirements. January 2016. Department of Children and Families. <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf>.

The second type of child-only TANF case is called the Relative Caregiver case where the child has been adjudicated dependent due to the original parents’ inability to care for the child and the child has been placed with relatives by the court. These relatives are eligible for a payment that is higher than the typical child-only payment, but less than the payment for licensed foster care. As with other child-only families, grandparents or relatives receiving Relative Caregiver payments are not subject to the TANF work requirements or time limits.

To be eligible, families must meet both financial and non-financial requirements established in state law. In general, families must include a child (or a pregnant woman) and be residents of Florida. Children under age 5 must be current with childhood immunizations and children age 6 to 18 must attend school and parents or caretakers must participate in school conferences. Countable assets must be \$2,000 or less and licensed vehicles needed for individuals subject to the work requirement may not exceed \$8,500.

Noncitizens

Florida law currently excludes a pro-rata share of the income from a parent who is an illegal noncitizen or ineligible noncitizen.<sup>5</sup> This means that a portion of the income that an illegal citizen parent contributes to the family is not counted towards in the family’s income for TANF eligibility.

**Work requirements**

Adults in families receiving cash assistance must work or participate in work related activities for a specified number of hours per week depending on the number of work-eligible adults in the family and the age of children.<sup>6</sup>

<b>Type of Family</b>	<b>Work participation Hours Required</b>
Other single parent families or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours in core activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent or participates in education related to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours per week (total among both parents) with at least 30 hours in core activities
Two-parent families who receive subsidized child care	55 hours per week with at least 50 hours in core activities

Federal law includes 12 work activities, including 9 that are “core” activities in that they may be used to satisfy any of the average weekly participation requirements and 3 that are “supplemental” in that they may only be used to satisfy the work activity requirement after the “core” requirement is met.

Core Activities include:

<sup>5</sup> s. 414.095(3)(d), F.S.

<sup>6</sup> *Id*



- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Job search and job readiness (limited to not more than 6 weeks in a federal fiscal year with not more than 4 weeks consecutive).
- Community service
- Work experience
- On-the-job training
- Vocational educational training (limited to 12 months for an individual), and
- Caring for a child of a recipient in community service.<sup>7</sup>

Supplemental Activities include:

- Job skills training directly related to employment
- Education directly related to employment (for those without a high school or equivalent degree), and
- Completion of a secondary school program.<sup>8</sup>

The department works with CareerSource Florida, Inc., known locally as the regional workforce boards to serve the families defined as work-eligible. Workforce boards assist the client in employment training and securing employment. The boards also document whether the client meets the work requirements under TANF and reports this information to the department. If a client does not meet his or her work requirements, the department will sanction the client by reducing or eliminating cash assistance.

**Amount of Assistance**

The amount of temporary cash assistance received by a family depends on family size and whether the family must pay for housing. The following monthly amounts are specified in s. 414.095(10), F.S.

Family Size	No Obligation To Pay for Shelter	Shelter Costs Less than \$50	Shelter Costs Greater than \$50
1	\$95	\$153	\$180
2	\$158	\$205	\$241
3	\$198	\$258	\$303
4	\$254	\$309	\$364
5	\$289	\$362	\$426

**Time Limits**

Federal law restricts receipt of federal TANF benefits to not more than 60 months of assistance. States may exempt up to 20 percent of the caseload from the time limit due to state-defined hardship. Florida law limits receipt of assistance to not more than 48 cumulative months of assistance with exemptions to the time limit provided for hardship. Examples of hardship would

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<sup>7</sup> *Id*

<sup>8</sup> *Id*

include individuals receiving Social Security disability benefits (which are different than SSI benefits) or individuals caring for a disabled family member when the disability and the need for care have been medically verified.

### **Relative Caregiver Program**

This program provides monthly cash assistance to relatives who meet eligibility rules and have custody of a child under age 18 who has been court ordered dependent by a Florida court and placed in their home by DCF or the community based care child welfare agencies.<sup>9</sup> The monthly cash assistance amount is higher than the Temporary Cash Assistance for one child, but less than the amount paid for a child in the foster care program.

Only the child's income and assets are counted when determining eligibility and payment amounts. Payments are based on the child's age and any countable income. Monthly payments for children with no countable income are as follows:

Age 0 through 5 - \$242 per child  
Age 6 through 12 - \$249 per child  
Age 13 through 17 - \$298 per child

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 445.004, F.S., specifying the duties of CareerSource Florida, the private entity responsible for the state's workforce development efforts. The bill requires local workforce boards to report certain work related information, such as the number of individuals served and the employment status, for TANF recipients in CareerSource's annual report.

**Section 2** amends s. 445.024, F.S., relating to work requirements for TANF participants. The bill requires a work plan agreement with the individual developed by the Department of Economic Opportunity, CareerSource Florida, and DCF. The plan must be in plain language, state what is expected of the participant, when and how they would be sanctioned, and contain strategies to help them overcome barriers to complete the work requirements.

**Section 3** amends s. 402.82, F.S., requiring the payment of cash assistance through electronic benefit transfer (EBT) cards. The bill imposes a fee on the TANF participant if the EBT card is lost or stolen 5 times in one year. The cost of the replacement card will be deducted from the amount of the cash assistance. DCF may waive the replacement fee for participants with extreme financial hardships.

**Section 4** amends s. 39.5085, F.S., relating to the Relative Caregiver Program. Consistent with federal law, the bill prohibits payments when both the parent and the child live with the relative caregiver. Payments can however be made in cases where both the parent and child are adjudicated dependent. This could happen when the parent is under 18 years of age.

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<sup>9</sup> Department of Children and Families website. <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/temporary-cash-assistance-tca>. (last visited March 29, 2017).

**Section 5** Directs the Legislature's Office of Program Policy Analysis and Government Accountability to conduct a study of workforce development efforts for TANF recipients. Specifically, the study must examine why TANF recipients do not meet work requirements and report to the Governor and Legislature by November 1, 2017.

**Section 6** provides an effective date of July 1, 2017.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill imposes a fee on TANF participants when their EBT card is lost or stolen five times in one year. The cost of the replacement card will be deducted from the amount of the cash assistance.

B. Private Sector Impact:

Participants in the TANF program who lose or have their EBT cards stolen more than five times in one year will have to pay for the replacement card.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 445.004, 445.024, 402.82, and 39.5085.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs Committee on April 3, 2017:**

- Removes the increase in penalties for participants in the TANF program who do not meet work requirements.
- Amends s. 445.04, F.S., to add to the requirements of the CareerSource Florida annual report.
- Requires the Office of Program Policy Analysis and Government Accountability to conduct a study of workforce development efforts for TANF recipients.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Rouson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 31 - 239

and insert:

Section 1. Paragraph (c) is added to subsection (7) of section 445.004, Florida Statutes, to read:

445.004 CareerSource Florida, Inc.; creation; purpose; membership; duties and powers.—

(7) By December 1 of each year, CareerSource Florida, Inc., shall submit to the Governor, the President of the Senate, the



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11 Speaker of the House of Representatives, the Senate Minority  
12 Leader, and the House Minority Leader a complete and detailed  
13 annual report setting forth:

14 (c) For each local workforce development board, participant  
15 statistics and employment outcomes, by program, for individuals  
16 subject to mandatory work requirements due to receipt of  
17 temporary cash assistance or food assistance under chapter 414,  
18 including:

- 19 1. Individuals served.
- 20 2. Services received.
- 21 3. Activities in which individuals participated.
- 22 4. Types of employment secured.
- 23 5. Individuals securing employment but remaining in each  
24 program.
- 25 6. Individuals exiting programs due to employment.
- 26 7. Employment status at 3 months, 6 months, and 12 months  
27 after exiting the program, for the past 3 years.

28 Section 2. Present subsections (3) through (7) of section  
29 445.024, Florida Statutes, are renumbered as subsections (4)  
30 through (8), respectively, and a new subsection (3) is added to  
31 that section, to read:

32 445.024 Work requirements.—

33 (3) WORK PLAN AGREEMENT.—For each individual who is not  
34 otherwise exempt from work activity requirements, but before a  
35 participant may receive temporary cash assistance, the  
36 Department of Economic Opportunity, in cooperation with  
37 CareerSource Florida, Inc., and the Department of Children and  
38 Families, must:

- 39 (a) Inform the participant, in plain language, and require



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40 the participant to assent to, in writing:

41 1. What is expected of the participant to continue to  
42 receive temporary cash assistance benefits.

43 2. Under what circumstances the participant would be  
44 sanctioned for noncompliance.

45 3. Potential penalties for noncompliance with the work  
46 requirements in s. 414.065, including how long benefits would  
47 not be available to the participant.

48 (b) Work with the participant to develop strategies to  
49 assist the participant in overcoming obstacles to compliance  
50 with the work activity requirements.

51 Section 3. Present subsection (4) of section 402.82,  
52 Florida Statutes, is renumbered as subsection (5), and a new  
53 subsection (4) is added to that section, to read:

54 402.82 Electronic benefits transfer program.—

55 (4) The department shall impose a fee for the fifth and  
56 each subsequent request for a replacement electronic benefits  
57 transfer card made by a participant within a 12-month period.  
58 The fee must be equal to the cost of replacing the electronic  
59 benefits transfer card. The fee may be deducted from the  
60 participant's benefits. The department may waive the replacement  
61 fee upon a showing of good cause, such as the malfunction of the  
62 card or extreme financial hardship.

63 Section 4. Paragraph (a) of subsection (1) and paragraph  
64 (a) of subsection (2) of section 39.5085, Florida Statutes, are  
65 amended to read:

66 39.5085 Relative Caregiver Program.—

67 (1) It is the intent of the Legislature in enacting this  
68 section to:



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69 (a) Provide for the establishment of procedures and  
70 protocols that serve to advance the continued safety of children  
71 by acknowledging the valued resource uniquely available through  
72 grandparents, relatives of children, and specified nonrelatives  
73 of children pursuant to sub-subparagraph (2)(a)1.c. ~~subparagraph~~  
74 ~~(2)(a)3.~~

75 (2)(a) The Department of Children and Families shall  
76 establish, ~~and operate,~~ and implement the Relative Caregiver  
77 Program ~~pursuant to eligibility guidelines established in this~~  
78 ~~section as further implemented~~ by rule of the department.

79 1. The Relative Caregiver Program shall, within the limits  
80 of available funding, provide financial assistance to:

81 a.1. ~~Relatives~~ who are within the fifth degree by blood or  
82 marriage to the parent or stepparent of a child and who are  
83 caring full-time for that dependent child in the role of  
84 substitute parent as a result of a court's determination of  
85 child abuse, neglect, or abandonment and subsequent placement  
86 with the relative under this chapter.

87 b.2. ~~Relatives~~ who are within the fifth degree by blood or  
88 marriage to the parent or stepparent of a child and who are  
89 caring full-time for that dependent child, and a dependent half-  
90 brother or half-sister of that dependent child, in the role of  
91 substitute parent as a result of a court's determination of  
92 child abuse, neglect, or abandonment and subsequent placement  
93 with the relative under this chapter.

94 c.3. ~~Nonrelatives~~ who are willing to assume custody and  
95 care of a dependent child in the role of substitute parent as a  
96 result of a court's determination of child abuse, neglect, or  
97 abandonment and subsequent placement with the nonrelative





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98 caregiver under this chapter. The court must find that a  
99 proposed placement under this subparagraph is in the best  
100 interest of the child.

101 2. The relative or nonrelative caregiver may not receive a  
102 Relative Caregiver Program payment if the parent or stepparent  
103 of the child resides in the home. However, a relative or  
104 nonrelative may receive the payment for a minor parent who is in  
105 his or her care and for the minor parent's child, if both the  
106 minor parent and the child have been adjudicated dependent and  
107 meet all other eligibility requirements. If the caregiver is  
108 currently receiving the payment, the payment must be terminated  
109 no later than the first day of the following month after the  
110 parent or stepparent moves into the home. Before the payment is  
111 terminated, the caregiver must be given 10 days' notice of  
112 adverse action.

113  
114 The placement may be court-ordered temporary legal custody to  
115 the relative or nonrelative under protective supervision of the  
116 department pursuant to s. 39.521(1)(b)3., or court-ordered  
117 placement in the home of a relative or nonrelative as a  
118 permanency option under s. 39.6221 or s. 39.6231 or under former  
119 s. 39.622 if the placement was made before July 1, 2006. The  
120 Relative Caregiver Program shall offer financial assistance to  
121 caregivers who would be unable to serve in that capacity without  
122 the caregiver payment because of financial burden, thus exposing  
123 the child to the trauma of placement in a shelter or in foster  
124 care.

125 Section 5. (1) The Office of Program Policy Analysis and  
126 Government Accountability shall conduct a study of each local



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127 workforce development board to determine what barriers exist  
128 which prevent participants in the Supplemental Nutrition  
129 Assistance Program and the Temporary Assistance for Needy  
130 Families cash assistance program from complying with the work  
131 requirements in the respective programs. The study must include  
132 detailed data and analysis of the reasons why applicants and  
133 recipients do not comply with the work requirements, the reasons  
134 that noncompliant applicants and recipients identify as barriers  
135 to compliance, and what assistance was offered to the  
136 participants to come into compliance. The study must also  
137 include a listing of the specific reasons for the sanctions  
138 applied, separated into categories with the number of  
139 participants who received each sanction. For example:

140 (a) Failure to attend a scheduled meeting—10 people  
141 sanctioned;

142 (b) Failure to complete required documents—5 people  
143 sanctioned; or

144 (c) Failure to comply with child support requirements, with  
145 specifics on what the requirement was.

146 (2) The legislative intent for requesting this independent  
147 study is to gain an in-depth understanding of the barriers that  
148 may exist for people trying to participate in the workforce,  
149 through reviewing the specific reasons participants are  
150 sanctioned on a region by region basis.

151 (3) The Office of Program Policy Analysis and Government  
152 Accountability shall submit a report with its findings and  
153 recommendations to the Governor, the President of the Senate,  
154 the Speaker of the House of Representatives, and the Minority  
155 Leaders of the Senate and the House of Representatives by



309382

156 November 1, 2017.

157

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

159 And the title is amended as follows:

160 Delete lines 3 - 26

161 and insert:

162 445.004, F.S.; requiring CareerSource Florida, Inc.,  
163 to submit a detailed annual report on certain  
164 information for individuals subject to mandatory work  
165 requirements who receive temporary cash or food  
166 assistance; amending s. 445.024, F.S.; requiring the  
167 Department of Economic Opportunity, in cooperation  
168 with CareerSource Florida, Inc., and the Department of  
169 Children and Families, to develop and implement a work  
170 plan agreement for participants in the temporary cash  
171 assistance program; requiring the plan to identify  
172 expectations, sanctions, and penalties for  
173 noncompliance with work requirements; amending s.  
174 402.82, F.S.; requiring the Department of Children and  
175 Families to impose a replacement fee for electronic  
176 benefits transfer cards under certain circumstances;  
177 amending s. 39.5085, F.S.; revising eligibility  
178 guidelines for the Relative Caregiver Program with  
179 respect to relative and nonrelative caregivers;  
180 requiring the Office of Program Policy Analysis and  
181 Government Accountability (OPPAGA) to conduct a study;  
182 providing study requirements; providing legislative  
183 intent; requiring OPPAGA to submit a report by a  
184 certain date to the Governor and the Legislature;



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185

providing an effective

By Senator Rouson

19-00559-17

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A bill to be entitled

An act relating to public assistance; amending s. 414.065, F.S.; revising penalties for noncompliance with work requirements for temporary cash assistance; limiting the receipt of child-only benefits during periods of noncompliance with work requirements; providing applicability of work requirements before expiration of the minimum penalty period; requiring the Department of Children and Families to refer sanctioned participants to appropriate free and low-cost community services, including food banks; amending s. 445.024, F.S.; requiring the Department of Economic Opportunity, in cooperation with CareerSource Florida, Inc., and the Department of Children and Families, to develop and implement a work plan agreement for participants in the temporary cash assistance program; requiring the plan to identify expectations, sanctions, and penalties for noncompliance with work requirements; amending s. 402.82, F.S.; requiring the Department of Children and Families to impose a replacement fee for electronic benefits transfer cards under certain circumstances; amending s. 39.5085, F.S.; revising eligibility guidelines for the Relative Caregiver Program with respect to relative and nonrelative caregivers; providing an appropriation; providing an effective date.

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

Section 1. Subsection (1) and paragraph (a) of subsection (2) of section 414.065, Florida Statutes, are amended to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

19-00559-17

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414.065 Noncompliance with work requirements.-

(1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The department shall establish procedures for administering penalties for nonparticipation in work requirements and failure to comply with the alternative requirement plan. If an individual in a family receiving temporary cash assistance fails to engage in work activities required in accordance with s. 445.024, the following penalties shall apply. Prior to the imposition of a sanction, the participant shall be notified orally or in writing that the participant is subject to sanction and that action will be taken to impose the sanction unless the participant complies with the work activity requirements. The participant shall be counseled as to the consequences of noncompliance and, if appropriate, shall be referred for services that could assist the participant to fully comply with program requirements. If the participant has good cause for noncompliance or demonstrates satisfactory compliance, the sanction ~~may shall~~ not be imposed. If the participant has subsequently obtained employment, the participant shall be counseled regarding the transitional benefits that may be available and provided information about how to access such benefits. The department shall administer sanctions related to food assistance consistent with federal regulations.

(a)1. First noncompliance: temporary cash assistance shall be terminated for the family for a minimum of 1 month ~~10 days~~ or until the individual who failed to comply does so, whichever is later. Upon meeting this requirement, temporary cash assistance shall be reinstated to the date of compliance or the first day

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62 of the month following the penalty period, whichever is later.

63 2. Second noncompliance:

64 a. Temporary cash assistance shall be terminated for the

65 family for 3 months ~~1 month~~ or until the individual who failed

66 to comply does so, whichever is later. The individual shall be

67 required to comply with the required work activity upon

68 completion of the 3-month penalty period before reinstatement of

69 temporary cash assistance. Upon meeting this requirement,

70 temporary cash assistance shall be reinstated to the date of

71 compliance or the first day of the month following the penalty

72 period, whichever is later.

73 b. Upon the second occurrence of noncompliance, temporary

74 cash assistance for the child or children in a family who are

75 under age 16 may be continued for the first 3 months of the

76 penalty period through a protective payee as specified in

77 subsection (2).

78 3. Third noncompliance:

79 a. Temporary cash assistance shall be terminated for the

80 family for 6 ~~3~~ months or until the individual who failed to

81 comply does so, whichever is later. The individual shall be

82 required to comply with the required work activity upon

83 completion of the 6-month ~~3-month~~ penalty period, before

84 reinstatement of temporary cash assistance. Upon meeting this

85 requirement, temporary cash assistance shall be reinstated to

86 the date of compliance or the first day of the month following

87 the penalty period, whichever is later.

88 b. Upon the third occurrence of noncompliance, temporary

89 cash assistance for the child or children in a family who are

90 under age 16 may be continued for the first 6 months of the

19-00559-17 2017570\_\_

91 penalty period through a protective payee as specified in

92 subsection (2).

93 4. Fourth noncompliance:

94 a. Temporary cash assistance shall be terminated for the

95 family for 12 months or until the individual who failed to

96 comply does so, whichever is later. The individual shall be

97 required to comply with the required work activity upon

98 completion of the 12-month penalty period and reapply before

99 reinstatement of temporary cash assistance. Upon meeting this

100 requirement, temporary cash assistance shall be reinstated to

101 the first day of the month following the penalty period.

102 b. Upon the fourth occurrence of noncompliance, temporary

103 cash assistance for the child or children in a family who are

104 under age 16 may be continued for the first 12 months of the

105 penalty period through a protective payee as specified in

106 subsection (2).

107 5. The sanctions imposed under subparagraphs 1.-4. do not

108 prohibit a participant from complying with the work activity

109 requirements during the penalty periods imposed by this

110 paragraph.

111 (b) If a participant receiving temporary cash assistance

112 who is otherwise exempted from noncompliance penalties fails to

113 comply with the alternative requirement plan required in

114 accordance with this section, the penalties provided in

115 paragraph (a) ~~shall~~ apply.

116 (c) When a participant is sanctioned for noncompliance with

117 this section, the department shall refer the participant to

118 appropriate free and low-cost community services, including food

119 banks.

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120  
121 If a participant fully complies with work activity requirements  
122 for at least 6 months, the participant shall be reinstated as  
123 being in full compliance with program requirements for purpose  
124 of sanctions imposed under this section.

125 (2) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR CHILDREN;  
126 PROTECTIVE PAYEES.—

127 (a) Upon the second or subsequent ~~third~~ occurrence of  
128 noncompliance, subject to the limitations in paragraph (1)(a),  
129 temporary cash assistance and food assistance for the child or  
130 children in a family who are under age 16 may be continued. Any  
131 such payments must be made through a protective payee or, in the  
132 case of food assistance, through an authorized representative.  
133 Under no circumstances shall temporary cash assistance or food  
134 assistance be paid to an individual who has failed to comply  
135 with program requirements.

136 Section 2. Subsections (3) through (7) of section 445.024,  
137 Florida Statutes, are renumbered as subsections (4) through (8),  
138 respectively, and a new subsection (3) is added to that section,  
139 to read:

140 445.024 Work requirements.—

141 (3) WORK PLAN AGREEMENT.—For each individual who is not  
142 otherwise exempt from work activity requirements, but before a  
143 participant may receive temporary cash assistance, the  
144 Department of Economic Opportunity, in cooperation with  
145 CareerSource Florida, Inc., and the Department of Children and  
146 Families, must:

147 (a) Inform the participant, in plain language, and require  
148 the participant to assent to, in writing:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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149 1. What is expected of the participant to continue to  
150 receive temporary cash assistance benefits.

151 2. Under what circumstances the participant would be  
152 sanctioned for noncompliance.

153 3. Potential penalties for noncompliance with the work  
154 requirements in s. 414.065, including how long benefits would  
155 not be available to the participant.

156 (b) Work with the participant to develop strategies to  
157 assist the participant in overcoming obstacles to compliance  
158 with the work activity requirements.

159 Section 3. Subsection (4) of section 402.82, Florida  
160 Statutes, is renumbered as subsection (5), and a new subsection  
161 (4) is added to that section, to read:

162 402.82 Electronic benefits transfer program.—

163 (4) The department shall impose a fee for the fifth and  
164 each subsequent request for a replacement electronic benefits  
165 transfer card made by a participant within a 12-month period.  
166 The fee must be equal to the cost of replacing the electronic  
167 benefits transfer card. The fee may be deducted from the  
168 participant's benefits. The department may waive the replacement  
169 fee upon a showing of good cause, such as the malfunction of the  
170 card or extreme financial hardship.

171 Section 4. Paragraph (a) of subsection (1) and paragraph  
172 (a) of subsection (2) of section 39.5085, Florida Statutes, are  
173 amended to read:

174 39.5085 Relative Caregiver Program.—

175 (1) It is the intent of the Legislature in enacting this  
176 section to:

177 (a) Provide for the establishment of procedures and

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178 protocols that serve to advance the continued safety of children  
 179 by acknowledging the valued resource uniquely available through  
 180 grandparents, relatives of children, and specified nonrelatives  
 181 of children pursuant to sub-subparagraph (2) (a)1.c. subparagraph  
 182 ~~(2) (a)3.~~

183 (2) (a) The Department of Children and Families shall  
 184 establish, ~~and operate, and implement~~ the Relative Caregiver  
 185 Program ~~pursuant to eligibility guidelines established in this~~  
 186 ~~section as further implemented~~ by rule of the department.

187 1. The Relative Caregiver Program shall, within the limits  
 188 of available funding, provide financial assistance to:

189 ~~a.1.~~ Relatives who are within the fifth degree by blood or  
 190 marriage to the parent or stepparent of a child and who are  
 191 caring full-time for that dependent child in the role of  
 192 substitute parent as a result of a court's determination of  
 193 child abuse, neglect, or abandonment and subsequent placement  
 194 with the relative under this chapter.

195 ~~b.2.~~ Relatives who are within the fifth degree by blood or  
 196 marriage to the parent or stepparent of a child and who are  
 197 caring full-time for that dependent child, and a dependent half-  
 198 brother or half-sister of that dependent child, in the role of  
 199 substitute parent as a result of a court's determination of  
 200 child abuse, neglect, or abandonment and subsequent placement  
 201 with the relative under this chapter.

202 ~~c.3.~~ Nonrelatives who are willing to assume custody and  
 203 care of a dependent child in the role of substitute parent as a  
 204 result of a court's determination of child abuse, neglect, or  
 205 abandonment and subsequent placement with the nonrelative  
 206 caregiver under this chapter. The court must find that a

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207 proposed placement under this subparagraph is in the best  
 208 interest of the child.

209 2. The relative or nonrelative caregiver may not receive a  
 210 Relative Caregiver Program payment if the parent or stepparent  
 211 of the child resides in the home. However, a relative or  
 212 nonrelative may receive the payment for a minor parent who is in  
 213 his or her care and for the minor parent's child, if both the  
 214 minor parent and the child have been adjudicated dependent and  
 215 meet all other eligibility requirements. If the caregiver is  
 216 currently receiving the payment, the payment must be terminated  
 217 no later than the first day of the following month after the  
 218 parent or stepparent moves into the home. Before the payment is  
 219 terminated, the caregiver must be given 10 days' notice of  
 220 adverse action.

221 The placement may be court-ordered temporary legal custody to  
 222 the relative or nonrelative under protective supervision of the  
 223 department pursuant to s. 39.521(1)(b)3., or court-ordered  
 224 placement in the home of a relative or nonrelative as a  
 225 permanency option under s. 39.6221 or s. 39.6231 or under former  
 226 s. 39.622 if the placement was made before July 1, 2006. The  
 227 Relative Caregiver Program shall offer financial assistance to  
 228 caregivers who would be unable to serve in that capacity without  
 229 the caregiver payment because of financial burden, thus exposing  
 230 the child to the trauma of placement in a shelter or in foster  
 231 care.  
 232

233 Section 5. For fiscal year 2017-2018, the sum of \$XXX,XXX  
 234 in nonrecurring funds from the Federal Grants Trust Fund is  
 235 appropriated to the Department of Children and Families for the



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236 purpose of performing the technology modifications necessary to  
237 implement changes to the disbursement of temporary cash  
238 assistance benefits and the replacement of electronic benefits  
239 transfer cards pursuant to this act.

240 Section 6. This act shall take effect July 1, 2017.

**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 570  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, April 3, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Office Building

FINAL VOTE		SENATORS	4/03/2017 Amendment 309382 <sup>1</sup>					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Artiles						
X		Broxson						
X		Campbell						
VA		Stargel						
		Torres, VICE CHAIR						
X		Garcia, CHAIR						
5	0	<b>TOTALS</b>	RCS	-				
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 634

INTRODUCER: Senator Campbell

SUBJECT: Involuntary Examinations Under the Baker Act

DATE: March 31, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	<b>Favorable</b>
2.	Crosier	Hendon	CF	<b>Favorable</b>
3.			JU	
4.			RC	

**I. Summary:**

SB 634 adds advanced registered nurse practitioners (ARNPs) and physician assistants (PAs) to the list of health care practitioners who may initiate an involuntary mental examination of a person under the Florida Mental Health Act, also known as the Baker Act.

The bill has an effective date of July 1, 2017, and has no fiscal impact.

**II. Present Situation:**

**Involuntary Examination Under the Baker Act**

In 1971, the Legislature passed the Florida Mental Health Act, also known as, “The Baker Act,” which is codified in Part I, ch. 394, F.S., to address mental health needs in the state.<sup>1</sup> The Baker Act provides the authority and process for the voluntary and involuntary examination of persons who meet certain criteria, and the subsequent inpatient or outpatient placement of such individuals for treatment.

The Department of Children and Families (DCF) administers The Baker Act through receiving facilities, which are designated by the DCF. The facilities that provide the examination and short-term treatment of persons who meet the criteria under The Baker Act may be public or private.<sup>2</sup> If, after an examination at a receiving facility,<sup>3</sup> a person requires further treatment he or

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<sup>1</sup> Chapter 71-131, s. 1, Laws of Fla.

<sup>2</sup> Section 394.455(39), F.S.

<sup>3</sup> Id.

she may be transported to a treatment facility.<sup>4</sup> Treatment facilities, designated by DCF, are state hospitals, which provide extended treatment and hospitalization beyond what is provided in a receiving facility.

A person who is subject to an involuntary examination generally may not be held longer than 72 hours in a receiving facility.<sup>5</sup>

A person may be subjected to an involuntary examination under s. 394.463, F.S., if there is reason to believe a person has a mental illness, and because of the illness, that person:

- Has refused a voluntary examination after the purpose of the exam has been explained, or
- Is unable to determine for himself or herself that an examination is needed; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself, herself, or others in the near future, as evidenced by recent behavior.<sup>6</sup>

A circuit or county court, law enforcement officers, and certain health care practitioners may initiate an involuntary examination of a person.<sup>7</sup>

A circuit court may enter an *ex parte* order stating a person meets the criteria for involuntary examination. A law enforcement officer may take a person into custody who appears to meet the criteria for involuntary examination and transport that person to a receiving facility for examination.

Health care practitioners may initiate an involuntary examination if the health care practitioner has examined the person within the last 48 hours, and finds that the person meets the criteria for an involuntary examination; and states on a form<sup>8</sup> adopted by the DCF, a Certificate of a Professional Initiating an Involuntary Examination, the observations upon which that conclusion is based.<sup>9</sup> The form contains information related to the person's diagnosis and the health care practitioner's personal observations of statements and behaviors that support the involuntary examination of such person.<sup>10</sup>

The Baker Act currently authorizes the following health care practitioners to initiate an involuntary examination by certificate:

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<sup>4</sup> Treatment facilities, designated by DCF, are state hospitals, which provide extended treatment and hospitalization beyond what is provided in a receiving facility. Section 394.55(47), F.S.

<sup>5</sup> Section 394.463(2)(g), F.S.

<sup>6</sup> Section 394.463(1), F.S.

<sup>7</sup> Section 394.463(2), F.S.

<sup>8</sup> See Florida Department of Children and Families, *CF-MH 3052b*, incorporated by reference in Rule 65E-5.280, F.A.C. <http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/3052b.pdf>. (last visited Mar. 10, 2017).

<sup>9</sup> Section 394.463(2)(a), F.S.

<sup>10</sup> See Florida Department of Children and Families, *CF-MH 3052b*, incorporated by reference in Rule 65E-5.280, F.A.C. <http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/3052b.pdf>. (last visited Mar. 10, 2017).

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders;
- A physician employed by a facility operated by the U.S. Department of Veterans Affairs or the United States Department of Defense;
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure;
- A psychologist employed by a facility operated by the U.S. Department of Veterans Affairs or the United States Department of Defense that qualifies as a receiving or treatment facility;
- A psychiatric nurse, who is an ARNP, with a master's degree or doctoral degree in psychiatric nursing, who holds a national advanced practice certification as a psychiatric mental health advanced practice nurse, and has two years of post-master's clinical experience under the supervision of a physician;<sup>11</sup>
- A mental health counselor licensed under ch. 491, F.S.;
- A marriage and family therapist licensed under ch. 491, F.S.; and
- A clinical social worker licensed under ch. 491, F.S.<sup>12</sup>

### Physician Assistants

Physician assistant (PA) licensure in Florida is governed by ss. 458.347(7) and 459.022(7), F.S. The Department of Health (DOH) licenses to PAs. PAs are regulated by the Florida Board of Medicine for PAs licensed under ch. 458, F.S., or the Florida Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S., and the Florida Council on Physician Assistants. The duty of a board and its members is to make disciplinary decisions concerning whether a doctor or PA has violated the provisions of his or her practice act. In 2016, there were 7,015 PAs holding active licenses in Florida.<sup>13</sup>

PAs may only practice under the direct or indirect supervision of a medical doctor or doctor of osteopathic medicine with whom they have a clinical relationship.<sup>14</sup> A supervising physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice.<sup>15</sup> The supervising physician is responsible and liable for any acts or omissions of the PA and may not supervise more than four PAs at any time.<sup>16</sup>

To be licensed as a PA in Florida, an applicant must demonstrate:

- Satisfactory passage of the National Commission on Certification of Physician Assistant exam;

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<sup>11</sup> Section 455(35), F.S.;

<sup>12</sup> Section 464.

<sup>13</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2015-2016*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html>, (last visited Mar. 10, 2017).

<sup>14</sup> Sections 458.347(2)(f) and 459.022(2)(f), F.S., are identical and define "supervision" as, "responsible supervision" and control which requires the easy availability or physical presence of the licensed physician for consultation and direction of the PA.

<sup>15</sup> Sections 458.347(12) and 459.022(12), F.S.

<sup>16</sup> Sections 458.347(15) and 459.022(15), F.S.

- Completion of the application and remittance of the application fee;<sup>17</sup>
- Completion of an approved PA training program;
- Acknowledgement of any prior felony convictions;
- Acknowledgement of any previous revocation or denial of licensure in any state;
- Two letters of recommendation; and
- If the applicant wishes to apply for prescribing authority, a copy of course transcripts and a copy of the course description from a PA training program describing the course content in pharmacotherapy.<sup>18</sup>

Licenses are renewed biennially.<sup>19</sup> At the time of renewal, a PA must demonstrate that he or she has met the continuing education requirements and must submit an acknowledgement that he or she has not been convicted of any felony in the previous two years.<sup>20</sup>

Current Florida law does not expressly allow PAs to refer for, or initiate, an involuntary examination of a person under the Baker Act; however, in 2008, Attorney General Bill McCollum issued an opinion stating:

. . . [A] physician assistant pursuant to Chapter 458 or 459, Florida Statutes, may refer a patient for involuntary evaluation pursuant to section 394.463, Florida Statutes, provided that the physician assistant has experience regarding the diagnosis and treatment of mental and nervous disorders and such tasks are within the supervising physician's scope of practice.<sup>21</sup>

Legislation enacted in 2016, chapter 2016-125, Laws of Fla., authorizes licensed PA to perform services delegated by the supervising physician in the physician assistant's practice in accordance with his or her education and training unless expressly prohibited under chapter 458 or 459, or rules adopted under those chapters.<sup>22</sup>

PAs are not required by current Florida law to have any specific education, training or experience in the diagnosis or treatment of mental health or nervous disorders for licensure, or renewal.

According to the American Association of Physician Assistants, most PA programs are approximately 26 months (three academic years) and award master's degrees. They include classroom instruction and clinical rotations. A PA student receives classroom instruction in:

- Anatomy;

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<sup>17</sup> The application fee is \$100 and the initial license fee is \$205. See <http://flboardofmedicine.gov/licensing/physician-assistant-licensure/> (last visited Mar. 10, 2017).

<sup>18</sup> Sections 458.347(7) and 459.022(7), F.S.

<sup>19</sup> For timely renewed licenses, the renewal fee is \$280 and the prescribing registration is \$150. An applicant may be charged an additional fee if the license is renewed after expiration or is more than 120 days delinquent. Florida Board of Medicine, Renewals, Physician Assistants <http://flboardofmedicine.gov/renewals/physician-assistants/> (last visited Mar. 10, 2017).

<sup>20</sup> Sections 458.347(7)(b)-(c) and 459.022(7)(b)-(c), F.S.

<sup>21</sup> Op. Att'y Gen. Fla. 08-31 (2008) at p. 4 <http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/agopinion.pdf>, (last visited Mar. 10, 2017).

<sup>22</sup> See ss. 458.347(4)(h) and 459.022(4)(g), F.S.

- Physiology;
- Biochemistry;
- Pharmacology;
- Physical diagnosis;
- Pathophysiology;
- Microbiology;
- Clinical laboratory science;
- Behavioral science; and
- Medical ethics

PA students also complete more than 2,000 hours of clinical rotations, with an emphasis on primary care in ambulatory clinics, physician offices and acute or long-term care facilities. PA rotations could include:

- Family medicine;
- Internal medicine;
- Obstetrics and gynecology;
- Pediatrics;
- General surgery;
- Emergency medicine; and
- Psychiatry.<sup>23</sup>

PAs are not currently required under Florida law to have any specific education, training or experience in the diagnosis or treatment of mental health or nervous disorders for licensure, or renewal. However, a PA working under the supervision of a physician who has experience in the diagnosis and treatment of mental and nervous disorders, or a physician employed by a facility operated by the U.S. Department of Veterans Affairs or the United States Department of Defense might obtain training or experience in these areas.

### **Advanced Registered Nurse Practitioners**

Nursing licensure is governed by part, I ch. 464, F.S. Nurses are licensed by the DOH and regulated by the Board of Nursing. Licensure requirements to practice nursing include completion of an approved educational course of study, passage of an examination approved by the DOH, acceptable criminal background screening results, and payment of applicable fees.<sup>24</sup>

A nurse who holds a current license to practice professional nursing may apply to be certified as an Advanced Registered Nurse Practitioner (ARNP), under s. 464.012, F.S., if the nurse meets one or more of the following requirements:

- Satisfactory completion of a formal post-basic educational program of at least one academic year that prepares nurses for advanced or specialized practice;
- Certification by a specialty board; or

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<sup>23</sup> American Association of Physician Assistant, "Attend a PA Program", <https://www.aapa.org/career-central/become-a-pa/> (last visited Mar. 12, 2017).

<sup>24</sup> Sections 464.008 and 464.009, F.S. As an alternative to licensure by examination, a nurse may also be eligible for licensure by endorsement.

- Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills.

Current law defines four categories of ARNPs: certified registered nurse anesthetists; certified nurse midwives; a nurse practitioner,<sup>25</sup> and a psychiatric nurse.<sup>26</sup> All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or dentist.<sup>27</sup> ARNPs may carry out treatments as specified in statute, including:<sup>28</sup>

- Prescribing, dispensing, administering, or ordering any drug;<sup>29</sup>
- Initiating appropriate therapies for certain conditions;
- Ordering diagnostic tests and physical and occupational therapy;
- Ordering any medication for administration patients in certain facilities; and
- Performing additional functions as maybe determined by rule in accordance with s. 464.003(2), F.S.<sup>30</sup>

In addition to the above-allowed acts, an ARNP may also perform other acts as authorized by statute and within his or her specialty.<sup>31</sup> Further, if it is within an ARNP's established protocol, the ARNP may establish behavioral problems and diagnosis and make treatment recommendations.<sup>32</sup>

Currently, only ARNPs who are "psychiatric nurses" may initiate involuntary examinations under the Baker Act.<sup>33</sup> To qualify as a psychiatric nurse, an ARNP must have a master's or doctoral degree in psychiatric nursing, hold a national advanced practice certification as a psychiatric mental health advanced practice nurse, and two years post-master's clinical experience.

### III. Effect of Proposed Changes:

SB 634 specifically authorizes PAs and ARNPs to initiate involuntary examinations under The Baker Act. The PA or ARNP must execute a certificate stating that a person he or she examined within the preceding 48 hours appears to meet the criteria for an involuntary examination for mental illness. Under s. 394.463, F.S., as currently enacted, only a physician with experience in

<sup>25</sup> Section 464.012(2), F.S.

<sup>26</sup> Section 394.455(35), F.S., defines a "Psychiatric nurse" as an ARNP certified under s. 464.012, F.S., who has a master's or doctoral degree in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advanced practice nurse, and has two years of post-master's clinical experience under the supervision of a physician.

<sup>27</sup> Section 464.012(3), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> An ARNP may only prescribe controlled substances if he or she has graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills. An ARNP is limited to prescribing a 7-day supply of Schedule II controlled substances. Only a psychiatric nurse may prescribe psychotropic controlled substances for the treatment of mental disorders and psychiatric mental health controlled substances for children younger than 18.

<sup>30</sup> Section 464.003(2), F.S., defines "advanced or specialized nursing practice" to include additional activities that an ARNP may perform as approved by the Board of Nursing.

<sup>31</sup> Section 464.012(4), F.S.

<sup>32</sup> Section 464.012(4)(c)1., F.S.

<sup>33</sup> Section 394.463(2)(a), F.S.



the diagnosis and treatment of mental and nervous disorders, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist or clinical social worker may initiate an involuntary examination by executing such a certificate.

The bill makes necessary conforming changes due to the statutory changes made by the bill.

The bill has an effective date of July 1, 2017.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

The bill defines a “physician assistant” and an “advanced registered nurse practitioner” in the same manner as their respective practice acts.<sup>34</sup> The bill does not direct any additional training, clinical or continuing education requirements for either the PA or the ARNP to be qualified to perform the examination, and execute the certificate, to subject a person to an involuntary mental

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<sup>34</sup> See ss. 458.347, 459.022, and 464.003, F.S.

health examination. All others health care providers authorized to initiate an involuntary examination have additional professional specialized training in psychiatric mental health.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.455, 394.463, 39.407, 394.495, 394.496, 394.9085, 409.972, and 744.2007.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Campbell

38-00760-17

2017634\_\_

1 A bill to be entitled  
 2 An act relating to involuntary examinations under the  
 3 Baker Act; amending s. 394.455, F.S.; defining terms;  
 4 amending s. 394.463, F.S.; authorizing physician  
 5 assistants and advanced registered nurse practitioners  
 6 to execute a certificate under certain conditions  
 7 stating that he or she has examined a person and finds  
 8 the person appears to meet the criteria for  
 9 involuntary examination; amending ss. 39.407, 394.495,  
 10 394.496, 394.9085, 409.972, and 744.2007, F.S.;

11 conforming cross-references; providing an effective  
 12 date.

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

16 Section 1. Present subsections (5) through (48) of section  
 17 394.455, Florida Statutes, are redesignated as subsections (6)  
 18 through (49), respectively, a new subsection (5) is added to  
 19 that section, and present subsection (33) is amended, to read:

20 394.455 Definitions.—As used in this part, the term:

21 (5) "Advanced registered nurse practitioner" means a person  
 22 licensed in this state to practice professional nursing and  
 23 certified in advanced or specialized nursing practice, as  
 24 defined in s. 464.003.

25 ~~(34)(33) "Physician assistant" has the same meaning as~~  
 26 ~~defined in s. 458.347(2)(e) means a person licensed under~~  
 27 ~~chapter 458 or chapter 459 who has experience in the diagnosis~~  
 28 ~~and treatment of mental disorders.~~

29 Section 2. Paragraph (a) of subsection (2) of section  
 30 394.463, Florida Statutes, is amended to read:

31 394.463 Involuntary examination.—

32 (2) INVOLUNTARY EXAMINATION.—

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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33 (a) An involuntary examination may be initiated by any one  
 34 of the following means:

35 1. A circuit or county court may enter an ex parte order  
 36 stating that a person appears to meet the criteria for  
 37 involuntary examination and specifying the findings on which  
 38 that conclusion is based. The ex parte order for involuntary  
 39 examination must be based on written or oral sworn testimony  
 40 that includes specific facts that support the findings. If other  
 41 less restrictive means are not available, such as voluntary  
 42 appearance for outpatient evaluation, a law enforcement officer,  
 43 or other designated agent of the court, shall take the person  
 44 into custody and deliver him or her to an appropriate, or the  
 45 nearest, facility within the designated receiving system  
 46 pursuant to s. 394.462 for involuntary examination. The order of  
 47 the court shall be made a part of the patient's clinical record.  
 48 A fee may not be charged for the filing of an order under this  
 49 subsection. A facility accepting the patient based on this order  
 50 must send a copy of the order to the department the next working  
 51 day. The order may be submitted electronically through existing  
 52 data systems, if available. The order shall be valid only until  
 53 the person is delivered to the facility or for the period  
 54 specified in the order itself, whichever comes first. If no time  
 55 limit is specified in the order, the order shall be valid for 7  
 56 days after the date that the order was signed.

57 2. A law enforcement officer shall take a person who  
 58 appears to meet the criteria for involuntary examination into  
 59 custody and deliver the person or have him or her delivered to  
 60 an appropriate, or the nearest, facility within the designated  
 61 receiving system pursuant to s. 394.462 for examination. The

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62 officer shall execute a written report detailing the  
63 circumstances under which the person was taken into custody,  
64 which must be made a part of the patient's clinical record. Any  
65 facility accepting the patient based on this report must send a  
66 copy of the report to the department the next working day.

67 3. A physician, physician assistant, clinical psychologist,  
68 psychiatric nurse, mental health counselor, marriage and family  
69 therapist, ~~or~~ clinical social worker, or an advanced registered  
70 nurse practitioner may execute a certificate stating that he or  
71 she has examined a person within the preceding 48 hours and  
72 finds that the person appears to meet the criteria for  
73 involuntary examination and stating the observations upon which  
74 that conclusion is based. If other less restrictive means, such  
75 as voluntary appearance for outpatient evaluation, are not  
76 available, a law enforcement officer shall take into custody the  
77 person named in the certificate and deliver him or her to the  
78 appropriate, or nearest, facility within the designated  
79 receiving system pursuant to s. 394.462 for involuntary  
80 examination. The law enforcement officer shall execute a written  
81 report detailing the circumstances under which the person was  
82 taken into custody. The report and certificate shall be made a  
83 part of the patient's clinical record. Any facility accepting  
84 the patient based on this certificate must send a copy of the  
85 certificate to the department the next working day. The document  
86 may be submitted electronically through existing data systems,  
87 if applicable.

88 Section 3. Paragraph (a) of subsection (3) of section  
89 39.407, Florida Statutes, is amended to read:

90 39.407 Medical, psychiatric, and psychological examination

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91 and treatment of child; physical, mental, or substance abuse  
92 examination of person with or requesting child custody.-

93 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.  
94 or paragraph (e), before the department provides psychotropic  
95 medications to a child in its custody, the prescribing physician  
96 shall attempt to obtain express and informed consent, as defined  
97 in s. 394.455(16) ~~s. 394.455(15)~~ and as described in s.  
98 394.459(3) (a), from the child's parent or legal guardian. The  
99 department must take steps necessary to facilitate the inclusion  
100 of the parent in the child's consultation with the physician.  
101 However, if the parental rights of the parent have been  
102 terminated, the parent's location or identity is unknown or  
103 cannot reasonably be ascertained, or the parent declines to give  
104 express and informed consent, the department may, after  
105 consultation with the prescribing physician, seek court  
106 authorization to provide the psychotropic medications to the  
107 child. Unless parental rights have been terminated and if it is  
108 possible to do so, the department shall continue to involve the  
109 parent in the decisionmaking process regarding the provision of  
110 psychotropic medications. If, at any time, a parent whose  
111 parental rights have not been terminated provides express and  
112 informed consent to the provision of a psychotropic medication,  
113 the requirements of this section that the department seek court  
114 authorization do not apply to that medication until such time as  
115 the parent no longer consents.

116 2. Any time the department seeks a medical evaluation to  
117 determine the need to initiate or continue a psychotropic  
118 medication for a child, the department must provide to the  
119 evaluating physician all pertinent medical information known to

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120 the department concerning that child.

121 Section 4. Paragraphs (a) and (c) of subsection (3) of  
122 section 394.495, Florida Statutes, are amended to read:

123 394.495 Child and adolescent mental health system of care;  
124 programs and services.—

125 (3) Assessments must be performed by:

126 (a) A professional as defined in s. 394.455(6), (8), (33),  
127 (36), or (37) s. 394.455(5), (7), (32), (35), or (36);

128 (c) A person who is under the direct supervision of a  
129 qualified professional as defined in s. 394.455(6), (8), (33),  
130 (36), or (37) s. 394.455(5), (7), (32), (35), or (36) or a  
131 professional licensed under chapter 491.

132 Section 5. Subsection (5) of section 394.496, Florida  
133 Statutes, is amended to read:

134 394.496 Service planning.—

135 (5) A professional as defined in s. 394.455(6), (8), (33),  
136 (36), or (37) s. 394.455(5), (7), (32), (35), or (36) or a  
137 professional licensed under chapter 491 must be included among  
138 those persons developing the services plan.

139 Section 6. Subsection (6) of section 394.9085, Florida  
140 Statutes, is amended to read:

141 394.9085 Behavioral provider liability.—

142 (6) For purposes of this section, the terms "detoxification  
143 services," "addictions receiving facility," and "receiving  
144 facility" have the same meanings as those provided in ss.  
145 397.311(25)(a)4., 397.311(25)(a)1., and 394.455(40) ~~394.455(39)~~,  
146 respectively.

147 Section 7. Paragraph (b) of subsection (1) of section  
148 409.972, Florida Statutes, is amended to read:

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149 409.972 Mandatory and voluntary enrollment.—

150 (1) The following Medicaid-eligible persons are exempt from  
151 mandatory managed care enrollment required by s. 409.965, and  
152 may voluntarily choose to participate in the managed medical  
153 assistance program:

154 (b) Medicaid recipients residing in residential commitment  
155 facilities operated through the Department of Juvenile Justice  
156 or a treatment facility as defined in s. 394.455(48) ~~s.~~  
157 ~~394.455(47)~~.

158 Section 8. Subsection (7) of section 744.2007, Florida  
159 Statutes, is amended to read:

160 744.2007 Powers and duties.—

161 (7) A public guardian may not commit a ward to a treatment  
162 facility, as defined in s. 394.455(48) ~~s. 394.455(47)~~, without  
163 an involuntary placement proceeding as provided by law.

164 Section 9. This act shall take effect July 1, 2017.

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**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 634  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Monday, April 3, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Artiles						
X		Broxson						
X		Campbell						
X		Stargel						
		Torres, VICE CHAIR						
X		Garcia, CHAIR						
5	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable    RCS=Replaced by Committee Substitute    TP=Temporarily Postponed    WD=Withdrawn  
 UNF=Unfavorable    RE=Replaced by Engrossed Amendment    VA=Vote After Roll Call    OO=Out of Order  
 -R=Reconsidered    RS=Replaced by Substitute Amendment    VC=Vote Change After Roll Call    AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 1260

INTRODUCER: Senator Bean

SUBJECT: Restrictions on Use of Public Assistance Benefits

DATE: March 31, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	<b>Favorable</b>
2.			AHS	
3.			AP	

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**I. Summary:**

SB 1260 amends section 402.82, F.S., to add soft drinks and candy to the list of items that cannot be purchased with an electronic benefits transfer cards. Electronic benefits transfer cards are issued to participants in the Supplemental Nutrition Assistance Program and used to purchase eligible food.

The bill has an effective date of July 1, 2017, and has an indeterminate fiscal impact.

**II. Present Situation:**

The Supplemental Nutrition Assistance Program (SNAP) offers nutrition assistance to eligible, low-income individuals and families in the form of funds to purchase eligible food. The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers SNAP, and the Florida Department of Children and Families (DCF) distributes the benefits. In Florida, SNAP and other economic assistance benefits are placed on Electronic Benefits Transfer (EBT) cards.

Eligible foods for SNAP are any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions. Eligible foods also include junk foods such as soft drinks and candy.

Junk food is food that is nutrient poor but rich in calories, salt, and fats. Excess consumption of junk foods may lead to nutritional deficiencies and health disorders including obesity, heart disease, high blood pressure, and diabetes. States and local governments have requested permission from the USDA for waivers to prohibit SNAP participants from purchasing junk foods with limited nutritional values with their benefits as a way to promote healthy choices. However, the USDA has denied every such request.

## Background

### *Supplemental Nutrition Assistance Program (SNAP)*

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).<sup>1</sup> SNAP offers nutrition assistance to millions<sup>2</sup> of eligible, low-income individuals and families, in the form of funds to purchase “eligible food,” and provides economic benefits to communities by reducing poverty and food insecurity.<sup>3</sup> For low-income households, increased spending on food is consistently and positively associated with diet quality and is associated with higher use and intake of both fruits and vegetables.<sup>4</sup>

Various state agencies and entities work together through a series of contracts or memoranda of understanding to administer the SNAP Program in Florida. The Department of Children and Families (DCF) is the state agency that determines and monitors eligibility and disperses benefits to SNAP participants. The federal government funds 100% of the benefit amount.<sup>5</sup> However, FNS and states share the administrative costs of the program.<sup>6</sup> Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need,

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<sup>1</sup> 1 The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity; simplify program administration; maintain states’ flexibility in how they administer their programs; and improve access to SNAP. See *A Short History of SNAP*, UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE, available at [http://www.fns.usda.gov/sites/default/files/History\\_of\\_SNAP.pdf](http://www.fns.usda.gov/sites/default/files/History_of_SNAP.pdf) (last visited March 30, 2017); and *State Options Report: Supplemental Nutrition Assistance Program*, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, (11th ed.), Sept. 2013, available at [http://www.fns.usda.gov/sites/default/files/snap/11-State\\_Options.pdf](http://www.fns.usda.gov/sites/default/files/snap/11-State_Options.pdf) (last visited March 30, 2017).

<sup>2</sup> In an average month in Federal Fiscal Year (FFY) 2015, nationally, SNAP provided benefits to 45.2 million people living in 22.3 million households. *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2015*, Report No. SNAP-16-CHAR, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM, NUTRITION ASSISTANCE PROGRAM REPORT SERIES, OFFICE OF POLICY SUPPORT, available at, <https://www.fns.usda.gov/sites/default/files/ops/Characteristics2015.pdf> (last visited March 30, 2017).

<sup>3</sup> For a detailed overview of SNAP, see Randy Alison Aussenberg, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*, CONGRESSIONAL RESEARCH SERVICE, (Dec. 29, 2014), available at <https://www.fas.org/sgp/crs/misc/R42505.pdf> (last visited March 30, 2017).

<sup>4</sup> *Food Expenditures and Diet Quality Among Low-Income Households and Individuals*, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, July 2010, available at [https://www.fns.usda.gov/sites/default/files/FoodExpendDietQuality\\_Summary.pdf](https://www.fns.usda.gov/sites/default/files/FoodExpendDietQuality_Summary.pdf) (last visited March 30, 2017).

<sup>5</sup> For FFY 2016, the maximum benefit amount is \$649 for a family of four, with an average benefit amount of \$471. *Policy Basics: Introduction to the Supplemental Nutrition Assistance Program (SNAP)*, CENTER FOR BUDGET AND POLICY PRIORITIES (Updated Mar. 24, 2016), available at <http://www.cbpp.org/sites/default/files/atoms/files/policybasics-foodstamps.pdf> (last visited March 30, 2017).

<sup>6</sup> In FFY 2015, FNS issued \$5,688,711,691 of benefits to Florida participants; the state share of administrative costs for Florida was \$86,726,922 and the federal share of administrative costs for Florida was \$80,997,415. *Supplemental Nutrition Assistance Program, State Activity Report: Fiscal Year 2015*, FOOD AND NUTRITION SERVICE, SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: PROGRAM ACCOUNTABILITY AND ADMINISTRATION DIVISION, August 2016, available at, <http://www.fns.usda.gov/sites/default/files/snap/2015-State-Activity-Report.pdf> (last visited March 30, 2017).



streamline program administration and field operations, and coordinate SNAP activities with those of other programs.<sup>7</sup> As of November 30, 2016, 3,331,377 individuals, including 1,837,913 children and 853,843 elderly or disabled individuals, were enrolled in SNAP in Florida.<sup>8</sup>

### ***Eligible Foods***

The Food and Nutrition Act of 2008 defines eligible food under SNAP as any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions.<sup>9</sup> Nonfood items such as pet foods, soaps, paper products, medicines and vitamins, household supplies, grooming items, and cosmetics are ineligible for purchase with SNAP benefits.<sup>10</sup> Eligible foods include junk foods such as soft drinks and candy.<sup>11</sup>

When considering the eligibility of vitamins and supplements, power bars, energy drinks and other branded products, the primary determinant is the type of product label chosen by the manufacturer to conform to Food and Drug Administration (FDA) guidelines:

- Items that carry a nutrition facts label are eligible foods.
- Items that carry a supplement facts label are classified by the FDA as supplements and are therefore not eligible.<sup>12</sup>

### ***Foods Purchased By SNAP Households***

In 2011, SNAP participants redeemed over \$71 billion in SNAP benefits in more than 230,000 SNAP-authorized stores.<sup>13</sup> Based on data from these purchases, the USDA published a study on the types of foods SNAP households typically purchase as compared to non-SNAP households.<sup>14</sup>

With respect to SNAP households, the data represents all food purchases made rather than only the foods purchased specifically with SNAP benefits.<sup>15</sup> The data could not differentiate between items purchased with SNAP benefits and those purchased with other funds; most SNAP

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<sup>7</sup> State Options Report: Supplemental Nutrition Assistance Program, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, (11th ed.), Sept. 2013, available at [http://www.fns.usda.gov/sites/default/files/snap/11-State\\_Options.pdf](http://www.fns.usda.gov/sites/default/files/snap/11-State_Options.pdf) (last visited March 10, 2017).

<sup>8</sup> Presentation to Children, Families, and Seniors Subcommittee on January 12, 2017 (PowerPoint on file with Children, Families, and Seniors Subcommittee staff).

<sup>9</sup> 7 USC § 2012(k); see also 7 CFR § 271.2.

<sup>10</sup> *Id.*

<sup>11</sup> For an explanation of the inclusion of “junk food” and luxury items as eligible foods, see UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Supplemental Nutrition Assistance Program (SNAP) Eligible Food Items, <https://www.fns.usda.gov/snap/eligible-food-items> (last visited March 30, 2017).

<sup>12</sup> Determining Product Eligibility for Purchase with SNAP Benefits, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Jan. 26, 2017, available at <https://www.fns.usda.gov/sites/default/files/eligibility.pdf> (last visited March 30, 2017).

<sup>13</sup> Supplemental Nutrition Assistance Program 2011 Annual Report, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, 2011, available at <https://www.fns.usda.gov/sites/default/files/snap/2011-annual-report.pdf> (last visited March 30, 2017).

<sup>14</sup> Foods Typically Purchased by Supplemental Nutrition Assistance Program (SNAP) Households, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Nov. 2016, available at <https://www.fns.usda.gov/sites/default/files/ops/SNAPFoodsTypicallyPurchased.pdf> (last visited March 30, 2017).

<sup>15</sup> *Id.*

households use a combination of SNAP benefits and their own funds when making their food purchases.

The study found that the expenditure patterns of SNAP and non-SNAP households were similar:

- Approximately 40 cents of every dollar of food expenditures were spent on basic items such as meat, fruits, vegetable, milk, eggs, and bread.
  - 41 cents of every dollar for SNAP households.
  - 44 cents of every dollar for non-SNAP households.
- Approximately 20 cents out of every dollar were spent on sweetened beverages, desserts, salty snacks, candy and sugar.
  - 23 Cents of every dollar for SNAP households
  - 20 cents of every dollar for non-SNAP households
  - Approximately 40 cents of every dollar were spent on a variety of items such as cereal, prepared foods, dairy products, rice, and beans.<sup>16</sup>

SNAP households spent almost ten percent of their food expenditures on sweetened beverages, which was almost double what those households spent on fruit.<sup>17</sup> As a percentage of total expenditures on foods, SNAP households spent the same on sweetened beverages as non-SNAP households spent on vegetables.<sup>18</sup>

### ***Effects of “Junk Foods” on Health***

Junk food is food that is nutrient poor but rich in calories, salt, and fats.<sup>19</sup> In recent decades, junk food consumption in the United States has increased dramatically, with 25% of people now consuming predominantly junk food diets.<sup>20</sup> Excess consumption of junk foods may lead in the rise of nutritional deficiencies and health disorders, including obesity, heart disease, high blood pressure, and diabetes.<sup>21</sup>

Junk food intake is associated with increased body mass index and weight gain.<sup>22</sup> High fat content and added sugar in junk food is a major contributor to weight gain. Junk food in children's diets accounts for 187 extra calories per day, leading to six additional pounds of weight gain per year.<sup>23</sup> Also, one additional sweetened beverage a day can add on 15 pounds in a year, not only because the drinks themselves add calories, but also because those calories are not as satisfying as those from nutritious solid foods.<sup>24</sup>

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<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Geeta Arya and Sunita Mishra, Effects of Junk Food & Beverages on Adolescent's Health – a Review Article, IOSR JOURNAL OF NURSING AND HEALTH SCIENCE, 2320–1940 Volume 1, Issue 6 (Jul – Aug 2013), pp. 26-32, available at [https://www.researchgate.net/publication/257536304\\_Effects\\_ofjunk\\_food\\_and\\_beverages\\_on\\_adolescents\\_health\\_A\\_review\\_article](https://www.researchgate.net/publication/257536304_Effects_ofjunk_food_and_beverages_on_adolescents_health_A_review_article) (last visited March 30, 2017).

<sup>20</sup> SF GATE, Reasons Eating Junk Food Is Not Good, <http://healthyeating.sfgate.com/reasons-eating-junk-food-not-good-3364.html> (last visited March 31, 2017).

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Supra, note 27.

<sup>24</sup> Which foods don't belong in a healthy diet? HARVARD HEALTH PUBLICATIONS, Oct. 28, 2016, <http://www.health.harvard.edu/staying-healthy/which-foods-dont-belong-in-a-healthy-diet> (last visited March 30, 2017).

Additionally, the high fat and sugar contents of junk foods contribute to other health problems. The trans-fat in junk foods may predispose children to risk of future heart disease,<sup>25</sup> and the dense sugar content in junk food can cause as much damage to the kidneys as diabetes.<sup>26</sup> The high levels of sugar in junk food also put the metabolism under stress, requiring the pancreas to secrete high amounts of insulin to prevent a dangerous spike in blood sugar levels.<sup>27</sup>

Junk food is also high in sodium, which increases blood pressure and forces the kidneys to work harder.<sup>28</sup> High blood pressure is a leading cause of stroke, heart attack, heart failure, kidney disease, and more.<sup>29</sup> Consuming excess salt contributed to 2.3 million deaths from heart attacks, strokes, and 24 other heart-related diseases worldwide in 2010.<sup>30</sup> In the United States, 429 deaths per million adults are attributed to consuming excess sodium, representing one in ten deaths due to these causes.<sup>31</sup>

### ***Restricting SNAP Eligible Foods***

States and local governments have proposed prohibiting SNAP participants from purchasing foods with limited nutritional values with their benefits as a mechanism to promote healthy choices; however, the USDA has identified four key problems with the rationale, feasibility, and potential effectiveness of these proposals:

No clear standards exist for defining foods as good or bad, or healthy or not healthy; Implementation of food restrictions would increase program complexity and costs; Restrictions may be ineffective in changing the purchases of food stamp participants; and No evidence exists that food stamp participation contributes to poor diet quality or obesity.

The USDA notes that it is difficult to draw a bright line between foods that contribute to a healthy diet and those that do not; the Dietary Guidelines for Americans, MyPyramid, the American Dietetic Association, and most nutritionists take a total diet approach to communicate healthful eating advice, placing emphasis on the overall pattern of food eaten, rather than any one food or meal. The USDA also asserts that it is unclear whether “healthy” foods should be characterized by the absence of nutrients to be avoided, the presence of desirable nutrients, or a combination of both. It goes on to note that diet sodas, for example, may pass a test based only on the absence of undesirable nutrients – they have no fat or sugars, are low in calories, and

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<sup>25</sup> Supra, note 26.

<sup>26</sup> Havovi Chichger, Mark E. Cleasby, Surjit K. Srail, Robert J. Unwin, Edward S. Debnam, and Joanne Marks. Experimental type II diabetes and related models of impaired glucose metabolism differentially regulate glucose transporters at the proximal tubule brush border membrane. EXPERIMENTAL PHYSIOLOGY, 2016.

<sup>27</sup> Supra, note 26.

<sup>28</sup> Daniel Pendick, Sodium still high in fast food and processed foods, HARVARD HEALTH PUBLICATIONS, May 6, 2013, <http://www.health.harvard.edu/blog/sodium-still-high-in-fast-food-and-processed-foods-201305166267> (last visited March 30, 2017).

<sup>29</sup> Id

<sup>30</sup> AMERICAN HEART ASSOCIATION, Eating too much salt led to nearly 2.3 million heart-related deaths worldwide in 2010, Mar. 21, 2013, <http://newsroom.heart.org/news/eating-too-much-salt-led-to-nearly-2-3-million-heart-related-deaths-worldwide-in-2010> (last visited March 30, 2017).

<sup>31</sup> AMERICAN HEART ASSOCIATION, Eating too much salt led to nearly 2.3 million heart-related deaths worldwide in 2010, Mar. 21, 2013, <http://newsroom.heart.org/news/eating-too-much-salt-led-to-nearly-2-3-million-heart-related-deaths-worldwide-in-2010> (last visited March 30, 2017).

contain little sodium – and based on those criteria alone, they would appear preferable to orange juice.<sup>32</sup>

The USDA argues that even if decisions could be made that distinguish allowable foods from restricted foods, there are still difficult implementation challenges, stemming from the enormous variety and scale of the American food sector; a typical supermarket carries about 40,000 products on its shelves and there are more than 300,000 food products available in the marketplace nationwide.<sup>33</sup> This creates three types of administrative and implementation problems:

- Identifying, evaluating, and tracking the nutritional profile of every food product or category available for purchase would be a significant expansion of government responsibility and associated bureaucracy, at a significant cost.
- New restrictions on the use of food stamps place the burden of enforcing compliance on the retailers and participants, who would need to be informed about what foods are no longer allowable.
- Expanding the pool of ineligible items increases opportunities for non-compliance, expands the need for oversight, and may increase the number of retailers or participants found in violation of program rules.<sup>34</sup>

Additionally, the USDA argues that it is not clear that a limit on the acceptable uses of food stamp benefits would actually change the nutrition profile of food purchases because SNAP participants could continue to purchase any food they want using their own money. The USDA also states that the body of research on SNAP does not support the view that restricting food choices will result in more healthful food purchases and consumption or improved dietary outcomes.<sup>35</sup> Instead, it notes that research clearly indicates that participation in the program increases household spending on food.<sup>36</sup>

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<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> In 2004, and several times since, Minnesota sought a waiver to prevent the purchase of junk food with SNAP benefits. The USDA denied the waiver, which focused on candy and soda, among other foods, stating that it was based on questionable merits. In 2010, New York City sought a federal waiver to prohibit the purchase of soda and other sweetened beverages with SNAP benefits for two years. Anemona Hartocollis, New York Asks to Bar Use of Food Stamps to Buy Sodas, THE NEW YORK TIMES, Oct. 6, 2010, available at <http://www.nytimes.com/2010/10/07/nyregion/07stamps.html> (last visited March 31, 2017). Since 2013, the USDA has denied Maine's repeated requests to ban the purchase of junk foods with SNAP benefits. In 2016, Maine's Governor threatened to implement reform unilaterally or cease the state's administration of the program if the USDA did not allow it to restrict purchases. PORTLAND PRESS HERALD, Gov. LePage's threat risks suspension of food stamp assistance, <http://www.pressherald.com/2016/06/22/federal-agency-says-it-cant-run-maines-food-stamp-program-if-state-refuses-to-do-so/> (last visited March 31, 2017). In light of administration changes at the federal level, Maine's Department of Health and Human Services Commissioner has stated that she will once again ask for a waiver to ban soda and junk food purchases with SNAP benefits. PORTLAND PRESS HERALD, Maine to ask Trump to allow ban on junk food purchases with food stamps, <http://wabi.tv/2017/01/24/maine-to-ask-trump-for-power-to-ban-food-stamps-for-soda/> (last visited March 30, 2017). This year Tennessee and Arkansas introduced legislation seeing to prohibit junk food purchases with SNAP benefits; however, the Arkansas bill has already died. See, Arkansas House Bill 1035 (2017), available at (last visited March 30, 2017); Bobby Ampezzan, Junk Food Ban For Food Stamps Dies Senate Committee Death, KASU, Feb. 9, 2017 ; <http://kasu.org/post/junk-food-ban-foot-stamps-dies-senate-committee-death> (last visited March 30, 2017); and Tennessee House Bill 0043 (2017), available at <http://www.capitol.tn.gov/Bills/110/Bill/HB0043.pdf> (last visited March 30, 2017) (the bill in Tennessee would also

Finally, the USDA asserts that achieving dietary improvement among SNAP participants is a complex challenge that is not likely to be met by prohibiting use of benefits for a group of foods perceived as having limited nutritional value.<sup>37</sup>

USDA has denied every request from states and local governments to implement waivers that would allow them to adopt their own standards for allowable foods under SNAP.<sup>38</sup> In rejecting them, the USDA has noted that state options are problematic because there is no scientific basis for allowing nutrition standards to vary from place to place and that variation in state requirements would complicate industry compliance and increase the cost of doing business.<sup>39</sup>

### **Electronic Benefits Transfer (EBT) Card Program**

Electronic Benefits Transfer (EBT) is an electronic system that allows a recipient to authorize transfer of their government benefits, including from the SNAP and Temporary Cash Assistance (TCA).<sup>40</sup> programs, to a retailer account to pay for products received. The EBT card program is administered on the federal level by the USDA and at the state level by DCF. In Florida, benefits are deposited into a TCA or SNAP account each month; these benefits are accessed using the Florida EBT Automated Community Connection to Economic Self Sufficiency (ACCESS) card.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 402.82, F.S., to prohibit participants from using SNAP benefits to purchase soft drinks and candy.

**Section 2** creates s. 414.457, F.S., to direct DCF to seek a waiver of federal requirements under the SNAP to prohibit persons from using SNAP benefits to purchase soft drinks and candy.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

---

impose a fine on SNAP participants and retailers that violate the law of \$1,000 for a first offense, \$2,500 for a second offense and up to \$5,000 for a third or more offense in a five-year period).

<sup>37</sup> Supra, note 39.

<sup>38</sup> The TCA Program is part of the Temporary Assistance to Needy Families (TANF) program and provides cash assistance to families with children that meet the technical, income, and asset requirements. The purpose of the TCA Program is to help families become self-supporting while allowing children to remain in their own homes.

UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICES, EBT: General Electronic Benefit Transfer (EBT) Information, <http://www.fns.usda.gov/ebt/general-electronic-benefit-transfer-ebt-information> (last visited March 30, 2017).

<sup>39</sup> UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICES, EBT: General Electronic Benefit Transfer (EBT) Information, <http://www.fns.usda.gov/ebt/general-electronic-benefit-transfer-ebt-information> (last visited March 30, 2017).

<sup>40</sup> Department of Children and Families, Agency Analysis of 2017 House Bill 593 (February 9, 2017)(on file with Children, Families, and Seniors Subcommittee staff).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Retailers that accept EBT cards will incur indeterminate costs to modify their point of sale systems or software to prohibit EBT card users from purchasing soft drinks and candy with SNAP or TCA benefits.

**C. Government Sector Impact:**

If the state receives a waiver from the federal government prohibiting the purchase of candy or soft drinks by EBT card users, a change in DCF's computer system may be required. The cost of any systems change has not been determined by DCF as of this date.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Bill should be effective upon getting federal approval otherwise state law will conflict with federal law.

**VIII. Statutes Affected:**

This bill substantially amends s. 402.82, of the Florida Statutes.  
This bill creates s. 414.457 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Bean

4-01051-17

20171260\_\_

1 A bill to be entitled  
 2 An act relating to restrictions on use of public  
 3 assistance benefits; amending s. 402.82, F.S.;  
 4 prohibiting the use of electronic benefits transfer  
 5 cards to purchase soft drinks or candy; creating s.  
 6 414.457, F.S.; directing the Department of Children  
 7 and Families to request a waiver to prohibit the use  
 8 of Supplemental Nutrition Assistance Program benefits  
 9 to purchase soft drinks or candy; providing an  
 10 effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. Subsection (4) of section 402.82, Florida  
 15 Statutes, is amended to read:

16 402.82 Electronic benefits transfer program.—

17 (4) Use or acceptance of an electronic benefits transfer  
 18 card is prohibited at the following locations or for the  
 19 following activities:

20 (a) The purchase of an alcoholic beverage as defined in s.  
 21 561.01 and sold pursuant to the Beverage Law.

22 (b) The purchase of soft drinks or candy.

23 ~~(c)~~ (b) An adult entertainment establishment as defined in  
 24 s. 847.001.

25 ~~(d)~~ (e) A pari-mutuel facility as defined in s. 550.002.

26 ~~(e)~~ (d) A slot machine facility as defined in s. 551.102.

27 ~~(f)~~ (e) A commercial bingo facility that operates outside  
 28 the provisions of s. 849.0931.

29 (g) ~~(f)~~ A casino, gaming facility, or gambling facility, or

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

4-01051-17

20171260\_\_

30 any gaming activities authorized under part II of chapter 285.  
 31 Section 2. Section 414.457, Florida Statutes, is created to  
 32 read:

33 414.457 Supplemental Nutrition Assistance Program;  
 34 purchases of soft drinks and candy prohibited.—The department  
 35 shall seek a waiver of federal requirements established under  
 36 the Supplemental Nutrition Assistance Program, 7 U.S.C. ss. 2011  
 37 et seq., to prohibit persons from using SNAP benefits to  
 38 purchase soft drinks or candy.

39 Section 3. This act shall take effect July 1, 2017.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1260  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Monday, April 3, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Artiles						
X		Broxson						
	X	Campbell						
VA		Stargel						
		Torres, VICE CHAIR						
X		Garcia, CHAIR						
4	1							
<b>Yea</b>	<b>Nay</b>	<b>TOTALS</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable  
 UNF=Unfavorable  
 -R=Reconsidered

RCS=Replaced by Committee Substitute  
 RE=Replaced by Engrossed Amendment  
 RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
 VA=Vote After Roll Call  
 VC=Vote Change After Roll Call

WD=Withdrawn  
 OO=Out of Order  
 AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 1680

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Baxley

SUBJECT: Child Welfare

DATE: April 4, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	<b>Fav/CS</b>
2.			AHS	
3.			AP	

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**I. Summary:**

CS/SB 1680 makes a number of revisions to current law to improve the care of children in the child welfare system and better ensure child safety, permanency and well-being.

The bill extends the jurisdiction of the dependency court over young adults with a disability until the age of 22 if the young adult continues to remain in foster care past the age of 18. The bill also requires that a child’s transition plan must be approved by the court before a child’s 18th birthday regardless of whether the child is leaving care at 18 and requires that the transition plan be attached to the case plan and updated before each judicial review.

The bill allows the dependency court to order “maintain and strengthen” in the child’s home as a permanency goal. The bill revises the definition of “permanency goal” by removing duplicative language contained in substantive law.

The bill requires the Department of Children and Families (DCF or department) to not only ensure the quality of contracted services and programs offered to families in the dependency system, but also ensure that an adequate array of services is available through the community-based care lead agencies (CBCs).

The bill has a significant fiscal impact on the department.

The bill provides an effective date of July 1, 2017.

## II. Present Situation:

### Extended Court Jurisdiction

States were given the opportunity to draw down additional federal funding if they gave young adults the ability to remain in care until they turn 21 or 22 if the young adult has a disability.<sup>1</sup> In 2014, the Legislature provided children in foster care the option of remaining in care beyond the age of 18.<sup>2</sup> In order to be eligible to remain in care, the young adult must be:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in programs or activities above full time due to a physical, intellectual, emotional, or psychiatric condition. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, intellectual, or psychiatric condition that impairs the child's ability to perform one or more life activities.<sup>3</sup>

In extended foster care, young adults continue to receive case management services and other supports to provide a sound platform for success as independent adults. While the 2014 legislation gave young adults with disabilities the option to remain in care until the age of 22, s. 39.013, F.S. was not also amended to extend court jurisdiction.

### Transition Plans

During the 6 month period immediately after a dependent child reaches 17 years of age, the department and the CBCs, in collaboration with the child, his or her caregiver, and any other person the child would like to include must develop a transition plan.<sup>4</sup> These transition plans must address services, housing, health insurance, education, workforce support and employment services, and the maintenance of mentoring relationships and other personal supports.<sup>5</sup> The plan is designed to help transition a child in the dependency system to adulthood. Currently, if a child is planning to leave care upon reaching 18 years of age, the transition plan must be approved by the court before the child leaves care and the court terminates jurisdiction.<sup>6</sup>

### Permanency Goals

The purpose of the permanency goal is to ensure a legally permanent, nurturing family for every child in out-of-home care. Current law provides that a permanency hearing must be held at least every 12 months for any child who continues to be supervised by the department or awaits adoption. Permanency goals available, listed in order of preference, are:

- Reunification;

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<sup>1</sup> Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351).

<sup>2</sup> Section 39.6251, F.S.

<sup>3</sup> Section 39.6251, F.S.

<sup>4</sup> Section 39.6035, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

- Adoption, if a petition for termination of parental rights has been or will be filed;
- Permanent guardianship of a dependent child;
- Permanent placement with a fit and willing relative; or
- Placement in another planned permanent living arrangement.<sup>7</sup>

### Child Welfare Services

Since the privatization of foster care and related services in Florida, the department contracts for case management, out-of-home care, and related services with community-based care organizations. The model of using lead agencies to provide child welfare services is designed to increase local community ownership of service delivery and design<sup>8</sup> and the community-based lead agencies rather than the department are responsible for providing foster care and related services. These services include, but are not limited to, counseling, domestic violence services, substance abuse services, family preservation, emergency shelter, and adoption.<sup>9</sup> The CBC must give priority to services that are evidence-based and trauma informed.<sup>10</sup>

Florida law currently vests responsibility in the department for the quality of contracted services and their delivery in accordance with federal and state law.<sup>11</sup>

The federal Child and Family Services Reviews (CFSR) are conducted periodically to ensure “substantial conformity” with federal child welfare regulations. The reviews are also designed to assist states in identifying where they need to enhance their program capacity to achieve child safety, permanency, and well-being.<sup>12</sup> The results from Florida’s last review included the following:

- Appropriate services were provided to meet the needs of children were provided in 82% of cases reviewed; and
- Needs of parents were appropriately assessed and addressed through services in 55% of cases reviewed:
  - Substance abuse and parenting services were provided in about 47% of cases reviewed;
  - In about 32% of the cases reviewed the agency did not make concerted efforts to engage parents in services or failed to provide appropriate services.<sup>13</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 39.01, F.S., relating to definitions, to remove duplicative language from the definition of “permanency goal” that is also found in s. 39.621, F.S., relating to permanency determinations by the court.

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<sup>7</sup> Section 39.621, F.S.

<sup>8</sup> Community-Based Care, The Department of Children and Families, *accessible at*: <http://www.myflfamilies.com/service-programs/community-based-care>. (last visited March 28, 2017).

<sup>9</sup> Section 409.988, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 409.996, F.S.

<sup>12</sup> U.S. Department of Health & Human Services, Administration for Children & Families, Children's Bureau, *available at*: <https://www.acf.hhs.gov/cb/monitoring/child-family-services-reviews>. (last visited March 28, 2017).

<sup>13</sup> Child and Family Services Reviews, Results Meeting, Florida CFSR, 2016.

**Section 2** amends s. 39.013, F.S., relating to procedures, jurisdiction and right to counsel, to extend the jurisdiction of the dependency court over young adults with a disability until the age of 22 if the young adult continues to remain in foster care past the age of 18.

**Section 3** amends s. 39.6035, F.S., relating to transition plans, to require that a child's transition plan be approved by the court before a child's 18th birthday regardless of whether the child is leaving care at the age of 18 and requires that the transition plan must be attached to the case plan and updated before each judicial review.

**Section 4** amends s. 39.621, F.S., relating to permanency determination by the court, to allow the dependency court to order to "maintain and strengthen" in the child's home as a permanency goal. The bill adds this goal to the options a dependency court is able to order.

**Section 5** amends s.409.996, F.S., relating to duties of the department, to require DCF to not only ensure the quality of contracted services and programs offered to families in the dependency system, but also ensure that an adequate array of services is available to be provided through the CBCs.

**Section 6** provides an effective date of July 1, 2017.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires the development of the service array and its monitoring, among other things. The department had a vendor perform an estimation last summer for a full services implementation within the Florida Safe Families Network (FSFN). If the intent

of this bill is to provide these services, the estimated system cost that the vendor provided was \$10,084,689.<sup>14</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends 39.01, 39.013, 39.6035, 39.621, and 409.996 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs Committee on April 3, 2017:**

- Removes the requirement for the development of a rating system for group homes and foster homes.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>14</sup> Department of Children and Families, 2017 Agency Legislative Bill Analysis, SB 1680, March 8, 2017.



635208

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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The Committee on Children, Families, and Elder Affairs (Baxley) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 323 - 369.

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

And the title is amended as follows:

Delete lines 12 - 19

and insert:

Children and Families to ensure an adequate array of services is available;

By Senator Baxley

12-01344B-17

20171680\_\_

1 A bill to be entitled  
 2 An act relating to child welfare; amending s. 39.01,  
 3 F.S.; redefining the term "permanency goal"; amending  
 4 s. 39.013, F.S.; extending court jurisdiction to age  
 5 22 for young adults with disabilities in foster care;  
 6 amending s. 39.6035, F.S.; requiring a transition plan  
 7 to be approved before a child reaches 18 years of age;  
 8 amending s. 39.621, F.S.; specifying the circumstances  
 9 under which the permanency goal of maintaining and  
 10 strengthening the placement with a parent may be used;  
 11 amending s. 409.996, F.S.; requiring the Department of  
 12 Children and Families, in collaboration with certain  
 13 entities, to develop a statewide quality rating system  
 14 for residential group care providers and foster homes;  
 15 requiring the system to be implemented by a specified  
 16 date; providing requirements for the system; requiring  
 17 the department to submit a report to the Governor and  
 18 the Legislature by a specified date and annually  
 19 thereafter; providing requirements for the report;  
 20 providing an effective date.

21  
 22 Be It Enacted by the Legislature of the State of Florida:

23  
 24 Section 1. Subsection (52) of section 39.01, Florida  
 25 Statutes, is amended to read:

26 39.01 Definitions.—When used in this chapter, unless the  
 27 context otherwise requires:

28 (52) "Permanency goal" means the living arrangement  
 29 identified for the child to return to or identified as the

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 permanent living arrangement of the child. ~~Permanency goals~~  
 31 ~~applicable under this chapter, listed in order of preference,~~  
 32 ~~are:~~  
 33 ~~(a) Reunification;~~  
 34 ~~(b) Adoption when a petition for termination of parental~~  
 35 ~~rights has been or will be filed;~~  
 36 ~~(c) Permanent guardianship of a dependent child under s.~~  
 37 ~~39.6221;~~  
 38 ~~(d) Permanent placement with a fit and willing relative~~  
 39 ~~under s. 39.6231; or~~  
 40 ~~(e) Placement in another planned permanent living~~  
 41 ~~arrangement under s. 39.6241.~~  
 42  
 43 The permanency goal is also the case plan goal. If concurrent  
 44 case planning is being used, reunification may be pursued at the  
 45 same time that another permanency goal is pursued.  
 46 Section 2. Subsection (2) of section 39.013, Florida  
 47 Statutes, is amended to read:  
 48 39.013 Procedures and jurisdiction; right to counsel.—  
 49 (2) The circuit court has exclusive original jurisdiction  
 50 of all proceedings under this chapter, of a child voluntarily  
 51 placed with a licensed child-caring agency, a licensed child-  
 52 placing agency, or the department, and of the adoption of  
 53 children whose parental rights have been terminated under this  
 54 chapter. Jurisdiction attaches when the initial shelter  
 55 petition, dependency petition, or termination of parental rights  
 56 petition, or a petition for an injunction to prevent child abuse  
 57 issued pursuant to s. 39.504, is filed or when a child is taken  
 58 into the custody of the department. The circuit court may assume

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59 jurisdiction over any such proceeding regardless of whether the  
 60 child was in the physical custody of both parents, was in the  
 61 sole legal or physical custody of only one parent, caregiver, or  
 62 some other person, or was not in the physical or legal custody  
 63 of any person when the event or condition occurred that brought  
 64 the child to the attention of the court. When the court obtains  
 65 jurisdiction of any child who has been found to be dependent,  
 66 the court shall retain jurisdiction, unless relinquished by its  
 67 order, until the child reaches 21 years of age, or 22 years of  
 68 age if the child has a disability, with the following  
 69 exceptions:

70 (a) If a young adult chooses to leave foster care upon  
 71 reaching 18 years of age.

72 (b) If a young adult does not meet the eligibility  
 73 requirements to remain in foster care under s. 39.6251 or  
 74 chooses to leave care under that section.

75 (c) If a young adult petitions the court at any time before  
 76 his or her 19th birthday requesting the court's continued  
 77 jurisdiction, the juvenile court may retain jurisdiction under  
 78 this chapter for a period not to exceed 1 year following the  
 79 young adult's 18th birthday for the purpose of determining  
 80 whether appropriate services that were required to be provided  
 81 to the young adult before reaching 18 years of age have been  
 82 provided.

83 (d) If a petition for special immigrant juvenile status and  
 84 an application for adjustment of status have been filed on  
 85 behalf of a foster child and the petition and application have  
 86 not been granted by the time the child reaches 18 years of age,  
 87 the court may retain jurisdiction over the dependency case

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88 solely for the purpose of allowing the continued consideration  
 89 of the petition and application by federal authorities. Review  
 90 hearings for the child shall be set solely for the purpose of  
 91 determining the status of the petition and application. The  
 92 court's jurisdiction terminates upon the final decision of the  
 93 federal authorities. Retention of jurisdiction in this instance  
 94 does not affect the services available to a young adult under s.  
 95 409.1451. The court may not retain jurisdiction of the case  
 96 after the immigrant child's 22nd birthday.

97 Section 3. Subsection (4) of section 39.6035, Florida  
 98 Statutes, is amended to read:

99 39.6035 Transition plan.—

100 (4) ~~If a child is planning to leave care upon reaching 18~~  
 101 ~~years of age,~~ The transition plan must be approved by the court  
 102 before the child's 18th birthday and must be attached to the  
 103 case plan and updated before each judicial review child leaves  
 104 ~~care and the court terminates jurisdiction.~~

105 Section 4. Present subsections (2) through (11) of section  
 106 39.621, Florida Statutes, are redesignated as subsections (3)  
 107 through (12), respectively, and a new subsection (2) is added to  
 108 that section, to read:

109 39.621 Permanency determination by the court.—

110 (2) The permanency goal of maintaining and strengthening  
 111 the placement with a parent may be used in all of the following  
 112 circumstances:

113 (a) If a child has not been removed from a parent, even if  
 114 adjudication of dependency is withheld, the court may leave the  
 115 child in the current placement with maintaining and  
 116 strengthening the placement as a permanency option.

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117 (b) If a child has been removed from a parent and is placed  
 118 with the parent from whom the child was not removed, the court  
 119 may leave the child in the placement with the parent from whom  
 120 the child was not removed with maintaining and strengthening the  
 121 placement as a permanency option.

122 (c) If a child has been removed from a parent and is  
 123 subsequently reunified with that parent, the court may leave the  
 124 child with that parent with maintaining and strengthening the  
 125 placement as a permanency option.

126 Section 5. Section 409.996, Florida Statutes, is amended to  
 127 read:

128 409.996 Duties of the Department of Children and Families.—  
 129 The department shall contract for the delivery, administration,  
 130 or management of care for children in the child protection and  
 131 child welfare system. In doing so, the department retains  
 132 responsibility to ensure ~~for~~ the quality of contracted services  
 133 and programs and ~~shall ensure~~ that an adequate array of services  
 134 is available to be ~~are~~ delivered in accordance with applicable  
 135 federal and state statutes and regulations.

136 (1) The department shall enter into contracts with lead  
 137 agencies for the performance of the duties by the lead agencies  
 138 pursuant to s. 409.988. At a minimum, the contracts must:

139 (a) Provide for the services needed to accomplish the  
 140 duties established in s. 409.988 and provide information to the  
 141 department which is necessary to meet the requirements for a  
 142 quality assurance program pursuant to subsection (18) and the  
 143 child welfare results-oriented accountability system pursuant to  
 144 s. 409.997.

145 (b) Provide for graduated penalties for failure to comply

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146 with contract terms. Such penalties may include financial  
 147 penalties, enhanced monitoring and reporting, corrective action  
 148 plans, and early termination of contracts or other appropriate  
 149 action to ensure contract compliance. The financial penalties  
 150 shall require a lead agency to reallocate funds from  
 151 administrative costs to direct care for children.

152 (c) Ensure that the lead agency shall furnish current and  
 153 accurate information on its activities in all cases in client  
 154 case records in the state's statewide automated child welfare  
 155 information system.

156 (d) Specify the procedures to be used by the parties to  
 157 resolve differences in interpreting the contract or to resolve  
 158 disputes as to the adequacy of the parties' compliance with  
 159 their respective obligations under the contract.

160 (2) The department must adopt written policies and  
 161 procedures for monitoring the contract for delivery of services  
 162 by lead agencies which must be posted on the department's  
 163 website. These policies and procedures must, at a minimum,  
 164 address the evaluation of fiscal accountability and program  
 165 operations, including provider achievement of performance  
 166 standards, provider monitoring of subcontractors, and timely  
 167 followup of corrective actions for significant monitoring  
 168 findings related to providers and subcontractors. These policies  
 169 and procedures must also include provisions for reducing the  
 170 duplication of the department's program monitoring activities  
 171 both internally and with other agencies, to the extent possible.  
 172 The department's written procedures must ensure that the written  
 173 findings, conclusions, and recommendations from monitoring the  
 174 contract for services of lead agencies are communicated to the

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175 director of the provider agency and the community alliance as  
176 expeditiously as possible.

177 (3) The department shall receive federal and state funds as  
178 appropriated for the operation of the child welfare system,  
179 transmit these funds to the lead agencies as agreed to in the  
180 contract, and provide information on its website of the  
181 distribution of the federal funds. The department retains  
182 responsibility for the appropriate spending of these funds. The  
183 department shall monitor lead agencies to assess compliance with  
184 the financial guidelines established pursuant to s. 409.992 and  
185 other applicable state and federal laws.

186 (4) The department shall provide technical assistance and  
187 consultation to lead agencies in the provision of care to  
188 children in the child protection and child welfare system.

189 (5) The department retains the responsibility for the  
190 review, approval or denial, and issuances of all foster home  
191 licenses.

192 (6) The department shall process all applications submitted  
193 by lead agencies for the Interstate Compact on the Placement of  
194 Children and the Interstate Compact on Adoption and Medical  
195 Assistance.

196 (7) The department shall assist lead agencies with access  
197 to and coordination with other service programs within the  
198 department.

199 (8) The department shall determine Medicaid eligibility for  
200 all referred children and shall coordinate services with the  
201 Agency for Health Care Administration.

202 (9) The department shall develop, in cooperation with the  
203 lead agencies, a third-party credentialing entity approved

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204 pursuant to s. 402.40(3), and the Florida Institute for Child  
205 Welfare established pursuant to s. 1004.615, a standardized  
206 competency-based curriculum for certification training for child  
207 protection staff.

208 (10) The department shall maintain the statewide adoptions  
209 website and provide information and training to the lead  
210 agencies relating to the website.

211 (11) The department shall provide training and assistance  
212 to lead agencies regarding the responsibility of lead agencies  
213 relating to children receiving supplemental security income,  
214 social security, railroad retirement, or veterans' benefits.

215 (12) With the assistance of a lead agency, the department  
216 shall develop and implement statewide and local interagency  
217 agreements needed to coordinate services for children and  
218 parents involved in the child welfare system who are also  
219 involved with the Agency for Persons with Disabilities, the  
220 Department of Juvenile Justice, the Department of Education, the  
221 Department of Health, and other governmental organizations that  
222 share responsibilities for children or parents in the child  
223 welfare system.

224 (13) With the assistance of a lead agency, the department  
225 shall develop and implement a working agreement between the lead  
226 agency and the substance abuse and mental health managing entity  
227 to integrate services and supports for children and parents  
228 serviced in the child welfare system.

229 (14) The department shall work with the Agency for Health  
230 Care Administration to provide each Medicaid-eligible child with  
231 early and periodic screening, diagnosis, and treatment,  
232 including 72-hour screening, periodic child health checkups, and

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233 prescribed followup for ordered services, including, but not  
 234 limited to, medical, dental, and vision care.

235 (15) The department shall assist lead agencies in  
 236 developing an array of services in compliance with the Title IV-  
 237 E waiver and shall monitor the provision of such services.

238 (16) The department shall provide a mechanism to allow lead  
 239 agencies to request a waiver of department policies and  
 240 procedures that create inefficiencies or inhibit the performance  
 241 of the lead agency's duties.

242 (17) The department shall directly or through contract  
 243 provide attorneys to prepare and present cases in dependency  
 244 court and shall ensure that the court is provided with adequate  
 245 information for informed decisionmaking in dependency cases,  
 246 including a face sheet for each case which lists the names and  
 247 contact information for any child protective investigator, child  
 248 protective investigation supervisor, case manager, and case  
 249 manager supervisor, and the regional department official  
 250 responsible for the lead agency contract. The department shall  
 251 provide to the court the case information and recommendations  
 252 provided by the lead agency or subcontractor. For the Sixth  
 253 Judicial Circuit, the department shall contract with the state  
 254 attorney for the provision of these services.

255 (18) The department, in consultation with lead agencies,  
 256 shall establish a quality assurance program for contracted  
 257 services to dependent children. The quality assurance program  
 258 shall be based on standards established by federal and state law  
 259 and national accrediting organizations.

260 (a) The department must evaluate each lead agency under  
 261 contract at least annually. These evaluations shall cover the

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262 programmatic, operational, and fiscal operations of the lead  
 263 agency and must be consistent with the child welfare results-  
 264 oriented accountability system required by s. 409.997. The  
 265 department must consult with dependency judges in the circuit or  
 266 circuits served by the lead agency on the performance of the  
 267 lead agency.

268 (b) The department and each lead agency shall monitor out-  
 269 of-home placements, including the extent to which sibling groups  
 270 are placed together or provisions to provide visitation and  
 271 other contacts if siblings are separated. The data shall  
 272 identify reasons for sibling separation. Information related to  
 273 sibling placement shall be incorporated into the results-  
 274 oriented accountability system required pursuant to s. 409.997  
 275 and into the evaluation of the outcome specified in s.  
 276 409.986(2)(e). The information related to sibling placement  
 277 shall also be made available to the institute established  
 278 pursuant s. 1004.615 for use in assessing the performance of  
 279 child welfare services in relation to the outcome specified in  
 280 s. 409.986(2)(e).

281 (c) The department shall, to the extent possible, use  
 282 independent financial audits provided by the lead agency to  
 283 eliminate or reduce the ongoing contract and administrative  
 284 reviews conducted by the department. If the department  
 285 determines that such independent financial audits are  
 286 inadequate, other audits, as necessary, may be conducted by the  
 287 department. This paragraph does not abrogate the requirements of  
 288 s. 215.97.

289 (d) The department may suggest additional items to be  
 290 included in such independent financial audits to meet the

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291 department's needs.

292 (e) The department may outsource programmatic,

293 administrative, or fiscal monitoring oversight of lead agencies.

294 (f) A lead agency must assure that all subcontractors are

295 subject to the same quality assurance activities as the lead

296 agency.

297 (19) The department and its attorneys have the

298 responsibility to ensure that the court is fully informed about

299 issues before it, to make recommendations to the court, and to

300 present competent evidence, including testimony by the

301 department's employees, contractors, and subcontractors, as well

302 as other individuals, to support all recommendations made to the

303 court. The department's attorneys shall coordinate lead agency

304 or subcontractor staff to ensure that dependency cases are

305 presented appropriately to the court, giving consideration to

306 the information developed by the case manager and direction to

307 the case manager if more information is needed.

308 (20) The department, in consultation with lead agencies,

309 shall develop a dispute resolution process so that disagreements

310 between legal staff, investigators, and case management staff

311 can be resolved in the best interest of the child in question

312 before court appearances regarding that child.

313 (21) The department shall periodically, and before

314 procuring a lead agency, solicit comments and recommendations

315 from the community alliance established in s. 20.19(5), any

316 other community groups, or public hearings. The recommendations

317 must include, but are not limited to:

318 (a) The current and past performance of a lead agency.

319 (b) The relationship between a lead agency and its

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320 community partners.

321 (c) Any local conditions or service needs in child

322 protection and child welfare.

323 (22) The department shall develop, in collaboration with

324 lead agencies, service providers, current and former foster

325 children, and other community stakeholders, a statewide quality

326 rating system for residential group care providers and foster

327 homes. This system must promote high quality in services and

328 accommodations by creating measurable minimum quality standards

329 that providers must meet to contract with the lead agencies and

330 that foster homes must meet to receive placements. Domains

331 addressed by a quality rating system for residential group care

332 providers may include, but need not be limited to, admissions,

333 service planning and treatment planning, living environment, and

334 program and service requirements. The quality rating system must

335 be implemented by July 1, 2019.

336 (a) The rating system must include:

337 1. Delineated levels of quality that are clearly and

338 concisely defined, the domains measured, and criteria which must

339 be met to be placed in each level. The quality rating system

340 must differentiate between shift and family-style models while

341 encouraging a high level of quality in both;

342 2. The number of residential group care staff and foster

343 parents who have received child welfare certification pursuant

344 to s. 402.40 through certification programs developed

345 specifically for residential group care staff and foster

346 parents. Such certification programs shall be developed in

347 collaboration with, at a minimum, current and former foster

348 children, foster parents, and residential group care providers;

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349 3. Contractual incentives for achieving and maintaining  
350 high levels of quality; and

351 4. A well-defined process for notice, inspection,  
352 remediation, appeal, and enforcement.

353 (b) The department shall submit a report to the Governor,  
354 the President of the Senate, and the Speaker of the House of  
355 Representatives by October 1 of each year, with the first report  
356 due October 1, 2017. The report must, at a minimum, include an  
357 update on the development of a statewide quality rating system  
358 for residential group care providers and foster homes and a plan  
359 for department oversight of the implementation of the statewide  
360 quality rating system for residential group care providers and  
361 foster homes by the community-based care lead agencies.  
362 Beginning in 2019 and in subsequent years, the report must also  
363 contain a list of residential group care providers meeting  
364 minimum quality standards and their quality ratings; the  
365 percentage of children placed in residential group care with  
366 highly rated providers; any negative action taken against  
367 contracted providers for not meeting minimum quality standards;  
368 the percentages of highly rated foster homes by lead agency; and  
369 the percentage of children placed in highly rated foster homes.

370 Section 6. This act shall take effect July 1, 2017.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/ SB 1756

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Garcia

SUBJECT: Examination and Treatment of Individuals with Mental Illness

DATE: April 4, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	<b>Fav/CS</b>
2.			AHS	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1756 provides responsibilities to the Department of Children and Families (DCF) for a comprehensive statewide mental health and substance abuse program. The bill revises the rights of individuals receiving mental health services to use surrogates or proxies to act as decisionmakers. Additionally, the definition of a service provider's employee is expanded to include contractors and volunteers for the purpose of reporting sexual misconduct.

The bill revises the list of people eligible for designation as representative for an individual admitted to a facility for involuntary examination or services to include a guardian advocate, health care surrogate or proxy. Persons ineligible for designation as representative of an individual admitted to a facility for involuntary examination or services include nonclinical people providing substantial professional services to the individual. A designated representative is give certain rights, authority and responsibility concerning the individual.

The list of professionals allowed to execute a certificate to initiate an involuntary examination is expanded to include an advanced registered nurse practitioner and a physician assistant. The professionals allowed to discharge an individual if an involuntary examination occurred in a hospital removes psychiatric nurses performing within a framework of an established protocol with a psychiatrist and an emergency department physician with experience in the diagnosis and treatment of mental illness and limits such discharge responsibilities to an attending emergency department physician.



The bill provides that hearings on involuntary services must be held within 5 court working days after the petition is filed and the hearing must be held in the receiving or treatment facility where the individual is located unless certain conditions apply.

The United States Department of Veterans' Affairs that provides mental health services is provided the authority to initiate and conduct involuntary examinations, provide voluntary admission and treatment and petition for involuntary services.

## II. Present Situation:

### Mental Health and Substance Abuse

Mental illness creates enormous social and economic costs.<sup>1</sup> Unemployment rates for persons with mental disorders are high relative to the overall population.<sup>2</sup> People with severe mental illness have exceptionally high rates of unemployment, between 60 percent and 100 percent.<sup>3</sup> Mental illness increases a person's risk of homelessness in America threefold.<sup>4</sup> Studies show that approximately 33 percent of our nation's homeless live with a serious mental disorder, such as schizophrenia, for which they are not receiving treatment.<sup>5</sup> Often the combination of homelessness and mental illness leads to incarceration, which further decreases a person's chance of receiving proper treatment and leads to future re-offenses.<sup>6</sup>

According to the National Alliance on Mental Illness (NAMI), approximately 50 percent of individuals with severe mental health disorders are affected by substance abuse.<sup>7</sup> NAMI also estimates that 29 percent of all people diagnosed as mentally ill abuse alcohol or other drugs.<sup>8</sup> When mental health disorders are left untreated, substance abuse is likely to increase. When substance abuse increases, mental health symptoms often increase as well or new symptoms may be triggered. This could also be due to discontinuation of taking prescribed medications or the contraindications for substance abuse and mental health medications. When taken with other medications, mental health medications can become less effective.<sup>9</sup>

### Baker Act

In 1971, the Legislature adopted the Florida Mental Health Act, known as the Baker Act.<sup>10</sup> The Act authorized treatment programs for mental, emotional, and behavioral disorders. The Baker Act required programs to include comprehensive health, social, educational, and rehabilitative services to persons requiring intensive short-term and continued treatment to facilitate recovery.

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<sup>1</sup> Mental Illness: The Invisible Menace, *Economic Impact* <http://www.mentalmenace.com/economicimpact.php>

<sup>2</sup> Mental Illness: The Invisible Menace, *More impacts and facts* <http://www.mentalmenace.com/impactsfacts.php>

<sup>3</sup> *Id.*

<sup>4</sup> Family Guidance Center, *How does Mental Illness Impact Rates of Homelessness?* (February 4, 2014) available at <http://www.familyguidance.org/how-does-mental-illness-impact-rates-of-homelessness/>

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Donna M. White, LPCI, CACP, Psych Central.com, *Living with Co-Occurring Mental & Substance Abuse Disorders*, (October 2, 2013) available at <http://psychcentral.com/blog/archives/2013/10/02/living-with-co-occurring-mental-substance-abuse-disorders/>

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Chapter 71-131, Laws of Fla.; The Baker Act is contained in ch. 394, F.S.

Additionally, the Baker Act provides protections and rights to individuals examined or treated for mental illness. Legal procedures are addressed for mental health examination and treatment, including voluntary admission, involuntary admission, involuntary inpatient treatment, and involuntary outpatient treatment.

Mental illness creates enormous social and economic costs.<sup>11</sup> Unemployment rates for persons having mental disorders are high relative to the overall population.<sup>12</sup> Rates of unemployment for people having a severe mental illness range between 60 percent and 100 percent.<sup>13</sup> Mental illness increases a person's risk of homelessness in America threefold.<sup>14</sup> Approximately 33 percent of the nation's homeless live with a serious mental disorder, such as schizophrenia, for which they are untreated.<sup>15</sup> Often the combination of homelessness and mental illness leads to incarceration, which further decreases a person's chance of receiving proper treatment and leads to future recidivism.<sup>16</sup>

### **Involuntary Examination to under the Baker Act**

#### ***Criteria for Involuntary Examination***

The Baker Act provides that a person meets the criteria for involuntary examination if a court finds by clear and convincing evidence that:

- He or she has a mental illness and because of his or her mental illness:
- Has refused voluntary inpatient placement for treatment after sufficient and conscientious explanation and disclosure of the purposes of inpatient placement for treatment; or
- He or she is unable to determine for himself or herself whether inpatient placement is necessary; and
- He or she is incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; or
- There is substantial likelihood that in the near future he or she will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and
- All available less restrictive treatment alternatives that would offer an opportunity for improvement of his or her condition have been judged to be inappropriate.<sup>17</sup>

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<sup>11</sup> MentalMenace.com, *Mental Illness: The Invisible Menace; Economic Impact*, <http://www.mentalmenace.com/economicimpact.php> (last visited Jan. 11, 2016).

<sup>12</sup> MentalMenace.com, *Mental Illness: The Invisible Menace: More impacts and facts*, <http://www.mentalmenace.com/impactsfacts.php> (last visited Jan. 11, 2016).

<sup>13</sup> *Id.*

<sup>14</sup> Family Guidance Center for Behavioral Health Care, *How does Mental Illness Impact Rates of Homelessness?*, (February 4, 2014), <http://www.familyguidance.org/how-does-mental-illness-impact-rates-of-homelessness/>.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Section 394.467(1), F.S.

### **Initiation of involuntary examinations**

Courts, law enforcement officers, and certain health care practitioners are authorized to initiate such involuntary examinations.<sup>18</sup> A circuit court may enter an *ex parte* order stating a person meets the criteria for involuntary examination. A law enforcement officer may take a person into custody who appears to meet the criteria and transport them to a receiving facility for examination. Health care practitioners may initiate an involuntary examination by executing the *Certificate of Professional Initiating an Involuntary Examination*, an official form adopted in rule by DCF. The health care practitioner must have examined the person within the preceding 48 hours and state that the person meets the criteria for involuntary examination.<sup>19</sup> The Baker Act currently authorizes the following health care practitioners to initiate an involuntary examination by certificate:

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders.
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure.
- A physician or psychologist employed by a facility operated by the United States Department of Veterans Affairs or the United States Department of Defense that qualifies as a receiving or treatment facility.
- A psychiatric nurse who is certified as an advanced registered nurse practitioner under s. 464.012, who has a master's degree or a doctorate in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advance practice nurse, and has two years of post-master's clinical experience under the supervision of a physician.
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.
- A clinical social worker licensed under ch. 491, F.S.<sup>20</sup>

### ***Time Limits***

A critical 72-hour period applies under the Baker Act. The Baker Act provides that a person cannot be held in a receiving facility for involuntary examination for more than 72 hours.<sup>21</sup> Within that 72-hour examination period, or, if the 72 hours ends on a weekend or holiday, no later than the next working day, one of the following must happen:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will resume custody;
- The patient must be released into voluntary outpatient treatment;
- The patient must be asked to give consent to be placed as a voluntary patient if placement is recommended; or
- A petition for involuntary placement must be filed in circuit court for outpatient or inpatient treatment.<sup>22</sup>

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<sup>18</sup> Section 394.463(2)(a), F.S.

<sup>19</sup> Section 394.463(2)(a)3., F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Section 394.463(2)(f), F.S.

<sup>22</sup> Section 394.463(2)(i)4., F.S.

## Physician Assistants

Physician assistant (PA) licensure in Florida is governed by ss. 458.347(7) and 459.022(7), F.S. The Department of Health (DOH) licenses PAs and the Florida Council on Physician Assistants (Council) regulates them.<sup>23</sup> PAs are also regulated by either the Florida Board of Medicine for PAs licensed under ch. 458, F.S., or the Florida Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S. The duty of the board and its members is to make disciplinary decisions concerning whether a doctor or PA has violated the provisions of his or her practice act.<sup>24</sup>

PAs may only practice under the direct or indirect supervision of a medical doctor or doctor of osteopathic medicine with whom they have a clinical relationship.<sup>25</sup> A supervising physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice.<sup>26</sup> The supervising physician is responsible and liable for any acts or omissions of the PA and may not supervise more than four PAs at any time.<sup>27</sup>

To be licensed as a PA in Florida, an applicant must demonstrate to the Council:

- Satisfactory passage of the National Commission on Certification of Physician Assistant exam;
- Completion of the application and remittance of the application fee;<sup>28</sup>
- Completion of an approved PA training program;
- Acknowledgement of any prior felony convictions;
- Acknowledgement of any previous revocation or denial of licensure in any state;
- Two letters of recommendation; and
- If the applicant wishes to apply for prescribing authority, a copy of course transcripts and a copy of the course description from a PA training program describing the course content in pharmacotherapy.<sup>29</sup>

Licenses are renewed biennially. At the time of renewal, a PA must demonstrate that he or she has met the continuing education requirements and must submit an acknowledgement that he or she has not been convicted of any felony in the previous two years.<sup>30</sup>

Current Florida law does not expressly allow PAs to refer for or initiate involuntary examinations under the Baker Act; however, in 2008, Attorney General Bill McCollum issued an opinion stating:

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<sup>23</sup> The Council consists of three physicians who are members of the Board of Medicine; one member who is a member of the Board of Osteopathic Medicine, and a physician assistant appointed by the State Surgeon General. (Sections 458.347(9) and 459.022(8), F.S.)

<sup>24</sup> Sections 458.347(12) and 459.022(12), F.S.

<sup>25</sup> Sections 458.347(2)(f) and 459.022(2)(f), F.S.

<sup>26</sup> Rules 64B8-30.012 and 64B15-6.010, F.A.C.

<sup>27</sup> Sections 458.347(15) and 459.022(15), F.S.

<sup>28</sup> The application fee is \$100 and the initial license fee is \$205. See <http://flboardofmedicine.gov/licensing/physician-assistant-licensure/> (last visited March 31, 2017).

<sup>29</sup> Sections 458.347(7) and 459.022(7), F.S.

<sup>30</sup> Sections 458.347(7)(b)-(c) and 459.022(7)(b)-(c), F.S.

A physician assistant pursuant to Chapter 458 or 459, Florida Statutes, may refer a patient for involuntary evaluation pursuant to section 394.463, Florida Statutes, provided that the physician assistant has experience regarding the diagnosis and treatment of mental and nervous disorders and such tasks are within the supervising physician's scope of practice.<sup>31</sup>

Pas are not required by law to have experience in the diagnosis and treatment of mental and nervous disorders.

### **Advanced Registered Nurse Practitioners**

Nurse licensure is governed by part I of ch. 464, F.S. Nurses are licensed by the DOH and regulated by the Board of Nursing. Licensure requirements to practice nursing include completion of an approved educational course of study, passage of an examination approved by the DOH, acceptable criminal background screening results, and payment of applicable fees.<sup>32</sup>

A nurse who holds a current license to practice professional nursing may apply to be certified as an Advanced Registered Nurse Practitioner (ARNP), under s. 464.012, F.S., if the nurse meets one or more of the following requirements:

- Satisfactory completion of a formal postbasic educational program of at least one academic year that prepares nurses for advanced or specialized practice;
- Certification by a specialty board; or
- Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.<sup>33</sup> All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or dentist.<sup>34</sup> ARNPs may carry out treatments as specified in statute, including:<sup>35</sup>

- Prescribing, dispensing, administering, or ordering any drug;<sup>36</sup>
- Initiating appropriate therapies for certain conditions;
- Ordering diagnostic tests and physical and occupational therapy;
- Ordering any medication for administration patients in certain facilities; and
- Performing additional functions as maybe determined by rule in accordance with s. 464.003(2), F.S.<sup>37</sup>

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<sup>31</sup> Op. Att'y Gen. Fla. 08-31 (2008), available at <http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/agopinion.pdf> (last visited March 31, 2017).

<sup>32</sup> Sections 464.008 and 424.009, F.S.

<sup>33</sup> Section 464.012(2), F.S.

<sup>34</sup> Section 464.012(3), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> an ARNP may only prescribe controlled substances if he or she has graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills. An ARNP is limited to prescribing a 7-day supply of Schedule II controlled substances. Only a psychiatric nurse may prescribe psychotropic controlled substances for the treatment of mental disorders and psychiatric mental health controlled substance for children younger than 18.

<sup>37</sup> Section 464.003(2), F.S.

In addition to the above-allowed acts, an ARNP may also perform other acts as authorized by statute and within his or her specialty.<sup>38</sup> Further, if it is within an ARNP's established protocol, the ARNP may establish behavioral problems and diagnosis and make treatment recommendations.<sup>39</sup>

Currently, only ARNPs who are "psychiatric nurses" may initiate involuntary examinations under the Baker Act.<sup>40</sup> To qualify as a psychiatric nurse, an ARNP must have a master's or doctoral degree in psychiatric nursing, hold a national advance practice certification as a psychiatric mental health advanced practice nurse, and two years post-master's clinical experience.

### III. Effect of Proposed Changes:

**Section 1** amends s. 394.453, F.S., to authorize DCF to include substance abuse impairment in its evaluation, research and recommendations of programs designed to reduce occurrence, severity, duration, and disabling aspects of mental, emotional and behavioral disorders.

**Section 2** amends s. 394.455, F.S., to add or revise terms to the definitions.

**Section 3** amends s. 394.457, F.S., to add substance abuse to DCF's comprehensive statewide program of mental health. Also, DCF is permitted to distribute its information handbook of policies and procedures for mental health and substance abuse online.

**Section 4** amends s. 394.4573, F.S., to change the term "patient" to "individual".

**Section 5** amends s. 394.4574, F.S. to allow mental health counselors, marriage and family therapists or qualified professionals conduct evaluations of individuals residing in assisted living facilities that hold limited mental health licenses.

**Section 6** amends s. 394.458, F.S., to provide it is unlawful to knowingly and intentionally bring certain items or articles into any facility providing mental health or substance abuse services.

**Section 7** amends s. 394.459, F.S., to provide that a person shall be given, in addition to a physical examination, a mental health examination within 24 hours at the facility by a psychiatrist, psychologist, or psychiatric nurse. The examinations must be documented in the clinical record. The facility, within 72 hours after admission of an individual, must provide the individual with an individualized treatment plan in writing.

This section also directs receiving and treatment facilities to have written procedures for reporting events that place individuals receiving services at risk of harm, including, but not limited to, death, injury, unauthorized departure or absence of the individual, a disaster or crisis situation or allegation of sexual battery upon an individual examined or treated in the facility. Facilities are directed to ensure that all staff, including contractors and volunteers receive the written procedures.

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<sup>38</sup> Section 464.012(4), F.S.

<sup>39</sup> Section 464.012(4)(c)1, F.S.

<sup>40</sup> Section 394.463(2)(a), F.S.

This section provides additional individuals who may deny or withdraw consent at any time on behalf of the individual, to receive notices on behalf and to receive custody of personal effects of the individual to include a health care surrogate or proxy.

Additionally, this section directs all service providers to provide information concerning advance directives and assist individuals who are competent and willing to complete advance directives. The directive may include instructions regarding mental health or substance abuse treatment.

**Section 8** amends s. 394.4593, F.S., to change the term “patient” to “individual”.

**Section 9** repeals s. 394.4595, F.S., relating to statewide and local advocacy councils.

**Section 10** creates s. 394.4596 to allow the agency designated by the Governor as the federally mandated protection and advocacy system for individuals with disabilities to have specific access under federal law to facilities, individuals, information and records.

**Section 11** amends s. 394.4597, F.S., to add the name, address and telephone number of a guardian advocate, health care surrogate or proxy to the list of individuals entered into the patient’s clinical record.

Additionally, this section adds volunteers and contractors to the list of individuals ineligible to serve as a representative of the patient. The person selected as representative by the individual or designated by the facility has the right to receive notices, have immediate access to the individual, receive a copy of the individuals inventory of clothing and person effects, petition on behalf of the individual for a writ of habeas corpus, apply for a change in venue for the involuntary placement hearing, and receive notice of release of the individual from a facility.

**Section 12** amends s. 394.4598, F.S., to prohibit a contractor or a volunteer of a facility from being appointed as a guardian advocate of an individual in a facility for involuntary examination.

**Section 13** amends s. 394.4599, F.S., to reinstate the requirement that a notice for the petition for involuntary outpatient services be filed with the criminal county court or the circuit court in the county in which the individual is hospitalized and to correct a cross-reference.

**Section 14** repeals s. 394.460, F.S., relating to rights of professionals.

**Section 15** amends s. 394.461, F.S., to provide that only governmental facilities and facilities designated by DCF may hold or treat individuals on an involuntary basis. Governmental facilities are authorized to provide voluntary and involuntary mental health or substance abuse examination and treatment.

**Section 16** amends s. 394.4615, F.S., to add certain individuals that may allow for the release and/or inspection of an individual’s clinical record to include the individual’s guardian advocate, health care surrogate or proxy.

**Section 17** amends s. 394.462, F.S., to allow law enforcement to transport an individual eligible for services provided by the United States Department of Veterans' Affairs to a facility operated by the United States Department of Veterans' Affairs.

This section allows a law enforcement officer who has custody of an individual based on a misdemeanor or a felony, other than a forcible felony as defined in s. 776.08, F.S. to transport the individual to an appropriate facility. The facility is not required to admit an individual charged with a forcible felony as defined in s. 766.08, F.S. if it determines it cannot provide adequate security.

This section allows a law enforcement officer to transport an individual who appears to meet the criteria for voluntary admission to a receiving facility upon the individual's request.

**Section 18** amends s. 394.4625, F.S., to provide criteria for examination and treatment of voluntary admissions of individuals to facilities. A minor may only be admitted on the basis of express and informed consent of the minor's guardian in conjunction with the assent of the minor. Unless the minor's assent is verified a petition for involuntary services must be filed with the court within 24 hours or the minor must be released to his or her guardian.

This section provides that a facility may not admit an individual on voluntary status or transfer an individual to voluntary status who has been adjudicated incapacitated except when a court provides authorization to a legal guardian.

This section also provides that an individual on voluntary status charged with a crime is to be discharged into the custody of law enforcement unless the individual has been released from law enforcement custody by posting a bond, pretrial conditional release or other judicial release.

**Section 19** amends s. 394.463, F.S., to add an advanced registered nurse practitioner and a physician assistant to the list of professionals that may complete a certificate to initiate involuntary examination of an individual. A law enforcement officer or professional who initiates an involuntary examination of an individual may notify the individual's guardian, representative, health care surrogate or proxy of such examination.

**Section 20** amends s. 394.467, F.S., to direct the Division of Administrative Hearings to ensure that individuals who are the subject of a petition for continued involuntary services or his or her guardian, guardian advocate, health care surrogate or proxy are informed of the individual's right to an independent expert examination.

**Section 21** amends s. 394.46715, F.S., to provide the department rulemaking authority.

**Section 22** amends s. 394.4672, F.S., to include a facility owned, operated, or administered by the United States Department of Veterans' Affairs that provides mental health services the authority to initiate and conduct involuntary examinations, provide voluntary services, and provide voluntary admission and treatment.



**Section 23** amends s. 394.4685, F.S., to allow a private facility to request an individual be transferred to another private facility upon the acceptance of the transfer by the facility to which the individual is being transferred.

**Section 24** amends s. 394.469, F.S., to provide that an individual currently charged with a crime may be discharged to law enforcement under certain conditions.

**Section 25** amends s. 394.473, F.S., to change the term “patient” to “individual”.

**Section 26** amends s. 394.475, F.S., to change the term “patient” to “individual”.

**Section 27** amends s. 394.4785, F.S., to correct cross-references.

**Section 28** repeals s. 394.4786, F.S., providing legislative intent.

**Section 29** repeals s. 394.47865, F.S., relating to privatization of state hospitals.

**Section 30** repeals s. 394.4787, F.S., providing definitions.

**Section 31** repeals s. 394.4788, F.S., relating to the use of certain funds.

**Section 32** repeals s. 394.4789, F.S., relating to referrals.

**Section 33** amends s. 20.425, F.S., to correct cross-references.

**Section 34** amends s. 39.407, F.S., to replace the term “involuntary placement” with “involuntary services”.

**Section 35** amends s. 394.492, F.S., to correct cross-references.

**Section 36** amends s. 394.495, F.S., to correct cross-references.

**Section 37** amends s. 394.496, F.S., to correct cross-references.

**Section 38** amends s. 394.9085, F.S., to correct cross-references.

**Section 39** amends s. 409.972, F.S., to correct cross-references.

**Section 40** amends s. 744.2007, F.S., to correct cross-references

**Section 41** amends s. 790.065, F.S., to correct cross-references.

**Section 42** amends s. 945.46, F.S., to replace the term “involuntary placement” with “involuntary services”

**Section 43** provides an effective date of July 1, 2017.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

DCF's current system is designed to collect individual-level encounter data; however the department would be required to modify its current acute care database to collect and maintain the required aggregate data by payor class as set forth in Section 15 of the proposed legislation.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.453, 394.455, 394.457, 394.4573, 394.4574, 394.458, 394.459, 394.4593, 394.4595, 394.4597, 394.4598, 394.4599, 394.461, 394.4615, 394.462, 394.4625, 394.463, 394.467, 394.46715, 394.4672, 394.4685, 394.469, 394.473, 394.475, 394.4785, 20.425, 39.407, 394.492, 394.495, 394.496, 394.9085, 409.972, 744.2007, 790.065, 945.46

This bill creates section 394.4596, of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 394.4595, 394.460, 394.4655, 394.4786, 394.47865, 394.4787, 394.4788, 394.4789

## **IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

### **CS by Children, Families, and Elder Affairs Committee on April 3, 2017:**

- Adds advanced registered nurse practitioners while removing school psychologists from the list of professionals eligible to initiate certificates for involuntary examinations.
- Reinstates the current data collection requirements for public receiving and treatment facilities due annually to the Agency for Health Care Administration.
- Removes the requirement that an individual’s clinical records may be released to the state attorney if a petition for involuntary services is filed.
- Reinstates the provision disallowing exceptions to transportation plans after June 30, 2017.
- Requires an individual in a facility on voluntary status receive notice every 6 months of his or her right to discharge.
- Removes physical or mental harm from the criteria necessary to subject an individual to involuntary examination.
- Removes the repeal of and reinstates s. 394.4655, F.S.
- Removes the prohibition against the court entering an order of involuntary inpatient placement for individuals with Alzheimer’s Disease, dementia, or traumatic brain-injury without a co-occurring mental illness.
- Removes the requirement that the court cannot order involuntary services if the services are not available.
- Removes the clarification that a public defender appointed to represent an indigent individual may not receive compensation for such representation.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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	.	

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The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 394.453, Florida Statutes, is amended to  
read:

394.453 Legislative intent.—

(1) It is the intent of the Legislature:

(a) To authorize and direct the Department of Children and  
Families to evaluate, research, plan, and recommend to the  
Governor and the Legislature programs designed to reduce the



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11 occurrence, severity, duration, and disabling aspects of mental,  
12 emotional, and behavioral disorders and substance abuse  
13 impairment.

14 (b) That treatment programs for such disorders include, ~~but~~  
15 ~~not be limited to,~~ comprehensive health, social, educational,  
16 and rehabilitative services for individuals ~~to persons~~ requiring  
17 intensive short-term and continued treatment in order to  
18 encourage them to assume responsibility for their treatment and  
19 recovery. It is intended that:

20 1. Such individuals ~~persons~~ be provided with emergency  
21 service and temporary detention for evaluation if ~~when~~ required;

22 2. Such individuals ~~persons~~ be admitted to treatment  
23 facilities if ~~on a voluntary basis when~~ extended or continuing  
24 care is needed and unavailable in the community;

25 3. Involuntary placement be provided only if ~~when~~ expert  
26 evaluation determines it is necessary;

27 4. Any involuntary treatment or examination be accomplished  
28 in a setting that is clinically appropriate and most likely to  
29 facilitate the individual's discharge ~~person's return to the~~  
30 ~~community~~ as soon as possible; and

31 5. ~~Individual~~ Dignity and human rights be guaranteed to all  
32 individuals ~~persons~~ who are admitted to mental health facilities  
33 ~~or who are being held under s. 394.463.~~

34 (c) That services provided to individuals ~~persons~~ in this  
35 state use the coordination-of-care principles characteristic of  
36 recovery-oriented services and include social support services,  
37 such as housing support, life skills and vocational training,  
38 and employment assistance, necessary for individuals ~~persons~~  
39 with mental health disorders and co-occurring mental health and



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40 substance use disorders to live successfully in their  
41 communities.

42 (d) That licensed, qualified health professionals be  
43 authorized to practice to the fullest extent of their education  
44 and training in the performance of professional functions  
45 necessary to carry out the intent of this part.

46 (2) It is the policy of this state that the use of  
47 restraint and seclusion ~~on clients~~ is justified only as an  
48 emergency safety measure to be used in response to imminent  
49 danger to the individual ~~client~~ or others. It is, therefore, the  
50 intent of the Legislature to achieve an ongoing reduction in the  
51 use of restraint and seclusion in programs and facilities  
52 serving individuals experiencing ~~persons with~~ mental illness.

53 (3) The Legislature further finds the need for additional  
54 psychiatrists to be of critical state concern and recommends the  
55 establishment of an additional psychiatry program to be offered  
56 by one of Florida's schools of medicine currently not offering  
57 psychiatry. The program shall seek to integrate primary care and  
58 psychiatry and other evolving models of care for individuals  
59 ~~persons~~ with mental health and substance use disorders.  
60 Additionally, the Legislature finds that the use of telemedicine  
61 for patient evaluation, case management, and ongoing care will  
62 improve management of patient care and reduce costs of  
63 transportation.

64 Section 2. Section 394.455, Florida Statutes, is amended to  
65 read:

66 394.455 Definitions.—As used in this part, the term:

67 (1) "Access center" means a facility that has medical,  
68 mental health, and substance abuse professionals to provide



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69 emergency screening and evaluation for mental health or  
70 substance abuse disorders and may provide transportation to an  
71 appropriate facility if an individual is in need of more  
72 intensive services.

73 (2) "Addictions receiving facility" is a secure, acute care  
74 facility that, at a minimum, provides emergency screening,  
75 evaluation, detoxification, and stabilization services; is  
76 operated 24 hours per day, 7 days per week; and is designated by  
77 the department to serve individuals found to have substance  
78 abuse impairment who qualify for services under this part.

79 (3) "Administrator" means the chief administrative officer  
80 of a receiving or treatment facility or his or her designee.

81 (4) "Adult" means an individual who is 18 years of age or  
82 older or who has had the disability of nonage removed under  
83 chapter 743.

84 (5) "Advance directive" has the same meaning as in s.  
85 765.101.

86 ~~(5) "Clinical psychologist" means a psychologist as defined~~  
87 ~~in s. 490.003(7) with 3 years of postdoctoral experience in the~~  
88 ~~practice of clinical psychology, inclusive of the experience~~  
89 ~~required for licensure, or a psychologist employed by a facility~~  
90 ~~operated by the United States Department of Veterans Affairs~~  
91 ~~that qualifies as a receiving or treatment facility under this~~  
92 ~~part.~~

93 (6) "Clinical record" means all parts of the record  
94 required to be maintained and includes all medical records,  
95 progress notes, charts, and admission and discharge data, and  
96 all other information recorded by facility staff which pertains  
97 to an individual's admission, retention ~~the patient's~~



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98 hospitalization, or treatment.

99 (7) "Clinical social worker" means a person licensed to  
100 practice social work under s. 491.005 or s. 491.006 or a person  
101 employed as a clinical social worker by the United States  
102 Department of Veterans Affairs or the United States Department  
103 of Defense as a clinical social worker under s. 491.005 or s.  
104 491.006.

105 (8) "Community facility" means a community service provider  
106 that contracts with the department to furnish substance abuse or  
107 mental health services under part IV of this chapter.

108 (9) "Community mental health center or clinic" means a  
109 publicly funded, not-for-profit center that contracts with the  
110 department for the provision of inpatient, outpatient, day  
111 treatment, or emergency services.

112 (10) "Court," unless otherwise specified, means the circuit  
113 court.

114 (11) "Department" means the Department of Children and  
115 Families.

116 (12) "Designated receiving facility" means a facility  
117 approved by the department which may be a public or private  
118 hospital, crisis stabilization unit, or addictions receiving  
119 facility; which provides, at a minimum, emergency screening,  
120 evaluation, and short-term stabilization for mental health or  
121 substance abuse disorders; and which may have an agreement with  
122 a corresponding facility for transportation and services.

123 (13) "Detoxification facility" means a facility licensed to  
124 provide detoxification services under chapter 397.

125 (14) "Electronic means" means a form of telecommunication  
126 which requires all parties to maintain visual as well as audio





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127 communication when being used to conduct an examination by a  
128 qualified professional.

129 (15) "Express and informed consent" means consent  
130 voluntarily given ~~in writing, by a competent person,~~ after  
131 sufficient explanation and disclosure of the subject matter  
132 involved, as documented in the clinical record, to enable the  
133 individual or his or her guardian, guardian advocate, or health  
134 care surrogate or proxy person to make a knowing and willful  
135 decision without any element of force, fraud, deceit, duress, or  
136 other form of constraint or coercion. Such consent must be in  
137 writing when provided by the individual, but may be provided  
138 verbally and documented in the clinical record when the  
139 individual's substitute decisionmaker is unable to reasonably  
140 provide it in writing.

141 (16) "Facility" means any hospital, community facility,  
142 public or private facility, or receiving or treatment facility  
143 providing for the evaluation, diagnosis, care, treatment,  
144 training, or hospitalization of individuals ~~persons who appear~~  
145 ~~to have or~~ who have been diagnosed as having a mental illness or  
146 substance abuse impairment. The term does not include a program  
147 or an entity licensed under chapter 400 or chapter 429.

148 (17) "Government facility" means a facility owned,  
149 operated, or administered by the Department of Corrections or  
150 the United States Department of Veterans Affairs.

151 (18) ~~(17)~~ "Guardian" means the natural guardian of a minor,  
152 or a person appointed by a court to act on behalf of a ward's  
153 person if the ward is a minor or has been adjudicated  
154 incapacitated.

155 (19) ~~(18)~~ "Guardian advocate" means a person appointed by a



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156 court to make decisions regarding mental health treatment on  
157 behalf of an individual ~~a patient~~ who has been found incompetent  
158 to consent to treatment pursuant to this part.

159 ~~(20)~~ ~~(19)~~ "Hospital" means a hospital licensed under chapter  
160 395 and part II of chapter 408.

161 ~~(21)~~ ~~(20)~~ "Incapacitated" means that an individual ~~a person~~  
162 has been adjudicated incapacitated pursuant to part V of chapter  
163 744 and a guardian of the individual ~~person~~ has been appointed.

164 ~~(22)~~ ~~(21)~~ "Incompetent to consent to treatment" means that  
165 an individual's ~~a state in which a person's~~ judgment is so  
166 affected by a mental illness or a substance abuse impairment  
167 that he or she lacks the capacity to make a well-reasoned,  
168 willful, and knowing decision concerning his or her medical,  
169 mental health, or substance abuse treatment.

170 ~~(23)~~ "Individual" means any person who is held or accepted  
171 for a mental health examination or treatment.

172 ~~(24)~~ ~~(22)~~ "Involuntary examination" means an examination  
173 performed under s. 394.463, ~~s. 397.6772, s. 397.679, s.~~  
174 ~~397.6798, or s. 397.6811~~ to determine if an individual ~~whether a~~  
175 ~~person~~ qualifies for involuntary services.

176 ~~(25)~~ ~~(23)~~ "Involuntary services" means court-ordered  
177 outpatient services or inpatient placement for mental health  
178 treatment pursuant to s. 394.4655 or s. 394.467.

179 ~~(26)~~ ~~(24)~~ "Law enforcement officer" has the same meaning as  
180 provided in s. 943.10 or a federal or tribal law enforcement  
181 officer as defined by federal law.

182 ~~(27)~~ ~~(25)~~ "Marriage and family therapist" means a person  
183 licensed to practice marriage and family therapy under s.  
184 491.005 or s. 491.006 or a person employed as a marriage and



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185 family therapist by the United States Department of Veterans  
186 Affairs or the United States Department of Defense.

187 (28)-(26) "Mental health counselor" means a person licensed  
188 to practice mental health counseling under s. 491.005 or s.  
189 491.006 or a person employed as a mental health counselor by the  
190 United States Department of Veterans Affairs or the United  
191 States Department of Defense.

192 (29)-(27) "Mental health overlay program" means a mobile  
193 service that provides an independent examination for voluntary  
194 admission and a range of supplemental onsite services to an  
195 individual who has persons with a mental illness in a  
196 residential setting such as a nursing home, an assisted living  
197 facility, or an adult family-care home or a nonresidential  
198 setting such as an adult day care center. Independent  
199 examinations provided through a mental health overlay program  
200 must ~~only~~ be provided only under contract with the department  
201 for this service or be attached to a public receiving facility  
202 that is also a community mental health center.

203 (30)-(28) "Mental illness" means an impairment of the mental  
204 or emotional processes that exercise conscious control of one's  
205 actions or of the ability to perceive or understand reality,  
206 which impairment substantially interferes with the individual's  
207 ~~person's~~ ability to meet the ordinary demands of living. As used  
208 in ~~For the purposes of~~ this part, the term does not include a  
209 developmental disability as defined in chapter 393,  
210 intoxication, or conditions manifested only by antisocial  
211 behavior or substance abuse impairment.

212 (31)-(29) "Minor" means an individual who is 17 years of age  
213 or younger and who has not had the disability of nonage removed



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214 pursuant to s. 743.01 or s. 743.015.

215 (32)~~(30)~~ "Mobile crisis response service" means a  
216 nonresidential crisis service available 24 hours per day, 7 days  
217 per week which provides immediate intensive assessments and  
218 interventions, including screening for admission into a mental  
219 health receiving facility, an addictions receiving facility, or  
220 a detoxification facility, for the purpose of identifying  
221 appropriate treatment services.

222 ~~(31) "Patient" means any person, with or without a co-~~  
223 ~~occurring substance abuse disorder, who is held or accepted for~~  
224 ~~mental health treatment.~~

225 (33)~~(32)~~ "Physician" means a medical practitioner licensed  
226 under chapter 458 or chapter 459 ~~who has experience in the~~  
227 ~~diagnosis and treatment of mental illness~~ or a physician  
228 employed by a ~~facility operated by~~ the United States Department  
229 of Veterans Affairs or the United States Department of Defense.

230 (34)~~(33)~~ "Physician assistant" means a person fully  
231 licensed as a physician assistant under chapter 458 or chapter  
232 459 or a person employed as a physician assistant by the United  
233 States Department of Veterans Affairs or the United States  
234 Department of Defense ~~who has experience in the diagnosis and~~  
235 ~~treatment of mental disorders.~~

236 (35)~~(34)~~ "Private facility" means a hospital or facility  
237 operated by a for-profit or not-for-profit corporation or  
238 association which provides mental health or substance abuse  
239 services and is not a public facility.

240 (36)~~(35)~~ "Psychiatric nurse" means an advanced registered  
241 nurse practitioner certified under s. 464.012 who has a master's  
242 or doctoral degree in psychiatric nursing, holds a national



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243 advanced practice certification as a psychiatric mental health  
244 advanced practice nurse, and has 2 years of post-master's  
245 clinical experience under the supervision of a physician or a  
246 person employed as a psychiatric nurse by the United States  
247 Department of Veterans Affairs or the United States Department  
248 of Defense.

249 ~~(37)~~ ~~(36)~~ "Psychiatrist" means a medical practitioner  
250 licensed under chapter 458 or chapter 459 for at least 3 years,  
251 inclusive of psychiatric residency or a person employed as a  
252 psychiatrist by the United States Department of Veterans Affairs  
253 or the United States Department of Defense.

254 ~~(38)~~ "Psychologist" means a person defined as a  
255 psychologist under s. 490.003 or a person employed as a  
256 psychologist by the United States Department of Veterans Affairs  
257 or the United States Department of Defense.

258 ~~(39)~~ ~~(37)~~ "Public facility" means a facility that has  
259 contracted with the department to provide mental health services  
260 to all individuals ~~persons~~, regardless of ability to pay, and is  
261 receiving state funds for such purpose.

262 ~~(40)~~ ~~(38)~~ "Qualified professional" means a physician or a  
263 physician assistant licensed under chapter 458 or chapter 459; a  
264 psychiatrist licensed under chapter 458 or chapter 459; a  
265 psychologist as defined in s. 490.003(7); an advanced registered  
266 nurse practitioner licensed under part I of chapter 464; or a  
267 psychiatric nurse as defined in this section.

268 ~~(41)~~ ~~(39)~~ "Receiving facility" means a public or private  
269 facility or hospital designated by the department to receive and  
270 hold individuals on involuntary status or refer, as appropriate,  
271 involuntary patients under emergency conditions for mental



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272 health or substance abuse evaluation and to provide treatment or  
273 transportation to the appropriate service provider. The term  
274 does not include a county jail.

275 ~~(42)(40)~~ "Representative" means a person selected pursuant  
276 to s. 394.4597(2) ~~to receive notice of proceedings during the~~  
277 ~~time a patient is held in or admitted to a receiving or~~  
278 ~~treatment facility.~~

279 ~~(43)(41)~~ "Restraint" means:

280 (a) A physical restraint, including any manual method or  
281 physical or mechanical device, material, or equipment attached  
282 or adjacent to an individual's body so that he or she cannot  
283 easily remove the restraint and which restricts freedom of  
284 movement or normal access to one's body. "Physical restraint"  
285 includes the physical holding of an individual ~~a person~~ during a  
286 procedure to forcibly administer psychotropic medication.  
287 "Physical restraint" does not include physical devices such as  
288 orthopedically prescribed appliances, surgical dressings and  
289 bandages, supportive body bands, or other physical holding when  
290 necessary for routine physical examinations and tests or for  
291 purposes of orthopedic, surgical, or other similar medical  
292 ~~treatment when used to provide~~ support for the achievement of  
293 functional body position or proper balance for protecting an  
294 individual ~~or when used to protect a person from falling out of~~  
295 ~~bed.~~

296 (b) A drug or medication used to control an individual's ~~a~~  
297 ~~person's~~ behavior or to restrict his or her freedom of movement  
298 which is not part of the standard treatment regimen for an  
299 individual having ~~of a person with~~ a diagnosed mental illness.

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301        ~~(44)-(42)~~ "Seclusion" means the physical segregation or  
302 involuntary isolation of an individual ~~a person~~ in a room or  
303 area from which the individual ~~person~~ is prevented from leaving.  
304 The prevention may be by physical barrier or by a staff member  
305 who is acting in a manner, or who is physically situated, so as  
306 to prevent the individual ~~person~~ from leaving the room or area.  
307 As used in ~~For purposes of~~ this part, the term does not mean  
308 isolation due to the individual's ~~a person's~~ medical condition  
309 or symptoms.

310        ~~(45)-(43)~~ "Secretary" means the Secretary of Children and  
311 Families.

312        ~~(46)-(44)~~ "Service provider" means a public or private  
313 receiving facility, a facility licensed under chapter 397, a  
314 treatment facility, an entity under contract with the department  
315 to provide mental health or substance abuse services, a  
316 community mental health center or clinic, a psychologist, a  
317 clinical social worker, a marriage and family therapist, a  
318 mental health counselor, a physician, a psychiatrist, an  
319 advanced registered nurse practitioner, a psychiatric nurse, or  
320 a substance abuse qualified professional ~~as defined in s. 39.01~~.

321        ~~(47)-(45)~~ "Substance abuse impaired ~~impairment~~" means a  
322 condition involving the use of alcoholic beverages or any  
323 psychoactive or mood-altering substance in such a manner that a  
324 person has lost the power of self-control and has inflicted or  
325 is likely to inflict physical harm on himself, herself, or  
326 another.

327        ~~(48)~~ "Substance abuse qualified professional" has the same  
328 meaning as in s. 397.311(33).

329        ~~(49)-(46)~~ "Transfer evaluation" means the process, as



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330 approved by the department, in which the individual by which a  
331 person who is being considered for placement in a state  
332 treatment facility is evaluated for appropriateness of admission  
333 to a treatment such facility. The transfer evaluation shall be  
334 conducted by the department, a public receiving facility, or a  
335 community mental health center or clinic.

336 (50)-(47) "Treatment facility" means a state-owned, state-  
337 operated, or state-supported hospital, center, or clinic  
338 designated by the department for extended treatment and  
339 hospitalization of individuals who have a mental illness,  
340 that provided for by a receiving facility or a, of persons who  
341 have a mental illness, including facilities of the United States  
342 Government, and any private facility designated by the  
343 department when rendering such services to a person pursuant to  
344 the provisions of this part. Patients treated in facilities of  
345 the United States Government shall be solely those whose care is  
346 the responsibility of the United States Department of Veterans  
347 Affairs.

348 (51)-(48) "Triage center" means a facility that has medical,  
349 mental health, and substance abuse professionals present or on  
350 call to provide emergency screening and evaluation for mental  
351 health or substance abuse disorders for individuals transported  
352 to the center by a law enforcement officer.

353 Section 3. Section 394.457, Florida Statutes, is amended to  
354 read:

355 394.457 Operation and administration.—

356 (1) ADMINISTRATION.—The Department of Children and Families  
357 is designated the "Mental Health Authority" of Florida. The  
358 department and the Agency for Health Care Administration shall





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359 exercise executive and administrative supervision over all  
360 ~~mental health~~ facilities, programs, and services.

361 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is  
362 responsible for:

363 (a) The planning, evaluation, and implementation of a  
364 complete and comprehensive statewide program of mental health  
365 and substance abuse, including community services, receiving and  
366 treatment facilities, child services, research, and training as  
367 authorized and approved by the Legislature, based on the annual  
368 program budget of the department. The department is also  
369 responsible for the coordination of efforts with other  
370 departments and divisions of the state government, county and  
371 municipal governments, and private agencies concerned with and  
372 providing mental health or substance abuse services. It is  
373 responsible for establishing standards, providing technical  
374 assistance, supervising ~~and exercising supervision of~~ mental  
375 health and substance abuse programs, ~~and of, and the treatment~~  
376 ~~of individuals~~ patients at, community facilities, other  
377 facilities serving individuals ~~for persons~~ who have a mental  
378 illness or substance abuse impairment, and any agency or  
379 facility providing services under ~~to patients pursuant to~~ this  
380 part.

381 (b) The publication and distribution of an information  
382 handbook to facilitate the understanding of ~~this part~~, the  
383 policies and procedures involved in the implementation of this  
384 part, and the responsibilities of the various service providers  
385 ~~of services~~ under this part. Distribution of this handbook may  
386 be limited to online electronic distribution. The department may  
387 ~~It shall~~ stimulate research by public and private agencies,



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388 institutions of higher learning, and hospitals in the interest  
389 of the elimination and amelioration of mental illnesses or  
390 substance abuse impairments illness.

391 (3) POWER TO CONTRACT.—The department may contract to  
392 provide, and be provided with, services and facilities in order  
393 to carry out its responsibilities under this part with respect  
394 to the following agencies: public and private hospitals;  
395 receiving and treatment facilities; clinics; laboratories;  
396 departments, divisions, and other units of state government; ~~the~~  
397 state colleges and universities; ~~the~~ community colleges; private  
398 colleges and universities; counties, municipalities, and ~~any~~  
399 other political subdivisions governmental unit, including  
400 facilities of the United States Government; and any other public  
401 or private entity that ~~which~~ provides or needs facilities or  
402 services. Baker Act funds for community inpatient, crisis  
403 stabilization, short-term residential treatment, and screening  
404 services under this part must be allocated to each county  
405 pursuant to the department's funding allocation methodology.  
406 Notwithstanding s. 287.057(3)(e), contracts for community-based  
407 Baker Act services for inpatient, crisis stabilization, short-  
408 term residential treatment, and screening ~~provided~~ under this  
409 part, other than those with other units of government, ~~to be~~  
410 ~~provided for the department~~ must be awarded using competitive  
411 solicitation sealed bids if the county commission of the county  
412 receiving the services makes a request to the department  
413 ~~department's district office~~ by January 15 of the contracting  
414 year. The department district may not enter into a competitively  
415 bid contract ~~under this provision~~ if such action will result in  
416 increases of state or local expenditures for Baker Act services



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417 ~~within the district.~~ Contracts for ~~these~~ Baker Act services  
418 using competitive solicitation ~~sealed bids~~ are effective for 3  
419 years. The department shall adopt rules establishing minimum  
420 standards for such contracted services and facilities and shall  
421 make periodic audits and inspections to assure that the  
422 contracted services are provided and meet the standards of the  
423 department.

424 (4) APPLICATION FOR AND ACCEPTANCE OF GIFTS AND GRANTS.—The  
425 department may apply for and accept any funds, grants, gifts, or  
426 services made available to it by any agency or department of the  
427 Federal Government or any other public or private agency or  
428 person ~~individual~~ in aid of mental health and substance abuse  
429 programs. All such moneys must ~~shall~~ be deposited in the State  
430 Treasury and ~~shall be~~ disbursed as provided by law.

431 (5) RULES.—The department shall adopt rules:

432 (a) ~~The department shall adopt rules~~ Establishing forms and  
433 procedures relating to the rights and privileges of individuals  
434 receiving examination or ~~patients seeking mental health~~  
435 treatment from facilities under this part.

436 (b) Implementing and administering ~~The department shall~~  
437 ~~adopt rules necessary for the implementation and administration~~  
438 ~~of the provisions of this part.,~~ and A program subject to the  
439 ~~provisions of this part~~ may ~~shall not be permitted to~~ operate  
440 unless rules designed to ensure the protection of the health,  
441 safety, and welfare of the individuals examined and ~~patients~~  
442 treated under ~~through~~ such program have been adopted. Such rules  
443 ~~adopted under this subsection~~ must include provisions governing  
444 the use of restraint and seclusion which are consistent with  
445 recognized best practices and professional judgment; prohibit



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446 inherently dangerous restraint or seclusion procedures;  
447 establish limitations on the use and duration of restraint and  
448 seclusion; establish measures to ensure the safety of program  
449 participants and staff during an incident of restraint or  
450 seclusion; establish procedures for staff to follow before,  
451 during, and after incidents of restraint or seclusion; establish  
452 professional qualifications of and training for staff who may  
453 order or be engaged in the use of restraint or seclusion; and  
454 establish mandatory reporting, data collection, and data  
455 dissemination procedures and requirements. Such rules ~~adopted~~  
456 ~~under this subsection~~ must require that each instance of the use  
457 of restraint or seclusion be documented in the clinical record  
458 of the individual who has been restrained or secluded patient.

459 (c) ~~The department shall adopt rules~~ Establishing minimum  
460 standards for services provided by a mental health overlay  
461 program or a mobile crisis response service.

462 (6) PERSONNEL.—

463 (a) The department shall, by rule, establish minimum  
464 standards of education and experience for professional and  
465 technical personnel employed in mental health programs,  
466 including members of a mobile crisis response service.

467 (b) The department may ~~shall~~ design and distribute  
468 appropriate materials for the orientation and training of  
469 persons actively engaged in administering ~~implementing~~ the  
470 provisions of this part relating to the involuntary examination  
471 and treatment placement of individuals ~~persons~~ who are believed  
472 to have a mental illness or substance abuse impairment.

473 (7) PAYMENT FOR CARE ~~OF PATIENTS~~.—Fees and fee collections  
474 for individuals ~~patients~~ in state-owned, state-operated, or



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475 state-supported treatment facilities must be in accordance with  
476 ~~shall be according to~~ s. 402.33.

477 Section 4. Subsection (1) and paragraph (b) of subsection  
478 (2) of section 394.4573, Florida Statutes, are amended to read:

479 394.4573 Coordinated system of care; annual assessment;  
480 essential elements; measures of performance; system improvement  
481 grants; reports.—On or before December 1 of each year, the  
482 department shall submit to the Governor, the President of the  
483 Senate, and the Speaker of the House of Representatives an  
484 assessment of the behavioral health services in this state. The  
485 assessment shall consider, at a minimum, the extent to which  
486 designated receiving systems function as no-wrong-door models,  
487 the availability of treatment and recovery services that use  
488 recovery-oriented and peer-involved approaches, the availability  
489 of less-restrictive services, and the use of evidence-informed  
490 practices. The department's assessment shall consider, at a  
491 minimum, the needs assessments conducted by the managing  
492 entities pursuant to s. 394.9082(5). Beginning in 2017, the  
493 department shall compile and include in the report all plans  
494 submitted by managing entities pursuant to s. 394.9082(8) and  
495 the department's evaluation of each plan.

496 (1) As used in this section, the term:

497 (a) "Care coordination" means the implementation of  
498 deliberate and planned organizational relationships and service  
499 procedures that improve the effectiveness and efficiency of the  
500 behavioral health system by engaging in purposeful interactions  
501 with individuals who are not yet effectively connected with  
502 services to ensure service linkage. Examples of care  
503 coordination activities include development of referral



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504 agreements, shared protocols, and information exchange  
505 procedures. The purpose of care coordination is to enhance the  
506 delivery of treatment services and recovery supports and to  
507 improve outcomes among priority populations.

508 (b) "Case management" means those direct services provided  
509 to a client in order to assess his or her needs, plan or arrange  
510 services, coordinate service providers, link the service system  
511 to a client, monitor service delivery, and evaluate patient  
512 outcomes to ensure the client is receiving the appropriate  
513 services.

514 (c) "Coordinated system of care" means the full array of  
515 behavioral and related services in a region or community offered  
516 by all service providers, whether participating under contract  
517 with the managing entity or by another method of community  
518 partnership or mutual agreement.

519 (d) "No-wrong-door model" means a model for the delivery of  
520 acute care services to individuals ~~persons~~ who have mental  
521 health or substance use disorders, or both, which optimizes  
522 access to care, regardless of the entry point to the behavioral  
523 health care system.

524 (2) The essential elements of a coordinated system of care  
525 include:

526 (b) A designated receiving system that consists of one or  
527 more facilities serving a defined geographic area and  
528 responsible for assessment and evaluation, both voluntary and  
529 involuntary, and treatment or triage of patients who have a  
530 mental health or substance use disorder, or co-occurring  
531 disorders.

532 1. A county or several counties shall plan the designated



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533 receiving system using a process that includes the managing  
534 entity and is open to participation by individuals with  
535 behavioral health needs and their families, service providers,  
536 law enforcement agencies, and other parties. The county or  
537 counties, in collaboration with the managing entity, shall  
538 document the designated receiving system through written  
539 memoranda of agreement or other binding arrangements. The county  
540 or counties and the managing entity shall complete the plan and  
541 implement the designated receiving system by July 1, 2017, and  
542 the county or counties and the managing entity shall review and  
543 update, as necessary, the designated receiving system at least  
544 once every 3 years.

545 2. To the extent permitted by available resources, the  
546 designated receiving system shall function as a no-wrong-door  
547 model. The designated receiving system may be organized in any  
548 manner which functions as a no-wrong-door model that responds to  
549 individual needs and integrates services among various  
550 providers. Such models include, but are not limited to:

551 a. A central receiving system that consists of a designated  
552 central receiving facility that serves as a single entry point  
553 for individuals ~~persons~~ with mental health or substance use  
554 disorders, or co-occurring disorders. The central receiving  
555 facility shall be capable of assessment, evaluation, and triage  
556 or treatment or stabilization of individuals ~~persons~~ with mental  
557 health or substance use disorders, or co-occurring disorders.

558 b. A coordinated receiving system that consists of multiple  
559 entry points that are linked by shared data systems, formal  
560 referral agreements, and cooperative arrangements for care  
561 coordination and case management. Each entry point shall be a



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562 designated receiving facility and shall, within existing  
563 resources, provide or arrange for necessary services following  
564 an initial assessment and evaluation.

565 c. A tiered receiving system that consists of multiple  
566 entry points, some of which offer only specialized or limited  
567 services. Each service provider shall be classified according to  
568 its capabilities as either a designated receiving facility or  
569 another type of service provider, such as a triage center, a  
570 licensed detoxification facility, or an access center. All  
571 participating service providers shall, within existing  
572 resources, be linked by methods to share data, formal referral  
573 agreements, and cooperative arrangements for care coordination  
574 and case management.

575  
576 An accurate inventory of the participating service providers  
577 which specifies the capabilities and limitations of each  
578 provider and its ability to accept patients under the designated  
579 receiving system agreements and the transportation plan  
580 developed pursuant to this section shall be maintained and made  
581 available at all times to all first responders in the service  
582 area.

583 Section 5. Section 394.4574, Florida Statutes, is amended  
584 to read:

585 394.4574 Responsibilities for coordination of services for  
586 a ~~mental health~~ resident with a mental illness who resides in an  
587 assisted living facility that holds a limited mental health  
588 license.—

589 (1) As used in this section, the term "mental health  
590 resident" means an individual who receives social security





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591 disability income due to a mental disorder as determined by the  
592 Social Security Administration or receives supplemental security  
593 income due to a mental disorder as determined by the Social  
594 Security Administration and receives optional state  
595 supplementation.

596 (2) Medicaid managed care plans are responsible for  
597 Medicaid enrolled mental health residents, and managing entities  
598 under contract with the department are responsible for mental  
599 health residents who are not enrolled in a Medicaid health plan.  
600 A Medicaid managed care plan or a managing entity shall ensure  
601 that:

602 (a) A ~~mental health~~ resident has been assessed by a  
603 psychiatrist, ~~clinical~~ psychologist, clinical social worker, ~~or~~  
604 psychiatric nurse, mental health counselor, marriage and family  
605 therapist, or a qualified professional as defined in s.  
606 394.455(40) ~~an individual~~ who is supervised by one of these  
607 professionals, and determined to be appropriate to reside in an  
608 assisted living facility. The documentation must be provided to  
609 the administrator of the facility within 30 days after the  
610 ~~mental health~~ resident has been admitted to the facility. An  
611 evaluation completed upon discharge from a state mental health  
612 treatment facility ~~hospital~~ meets the requirements of this  
613 subsection related to appropriateness for services ~~placement~~ as  
614 a ~~mental health~~ resident if it was completed within 90 days  
615 before admission to the facility.

616 (b) A cooperative agreement, as required in s. 429.075, is  
617 developed by the mental health or substance abuse ~~care~~ services  
618 provider that serves a ~~mental health~~ resident and the  
619 administrator of the assisted living facility with a limited



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620 mental health license in which the ~~mental health~~ resident is  
621 living.

622 (c) The community living support plan, as defined in s.  
623 429.02, has been prepared by a ~~mental health~~ resident and his or  
624 her mental health case manager in consultation with the  
625 administrator of the facility or the administrator's designee.  
626 The plan must be completed and provided to the administrator of  
627 the assisted living facility with a limited mental health  
628 license in which the ~~mental health~~ resident lives within 30 days  
629 after the resident's admission. The support plan and the  
630 agreement may be in one document.

631 (d) The assisted living facility with a limited mental  
632 health license is provided with documentation that the  
633 individual meets the definition of a mental health resident.

634 (e) The ~~mental health~~ services provider assigns a case  
635 manager to each ~~mental health~~ resident for whom the entity is  
636 responsible. The case manager shall coordinate the development  
637 and implementation of the community living support plan defined  
638 in s. 429.02. The plan must be updated at least annually, or  
639 when there is a significant change in the resident's behavioral  
640 health status. Each case manager shall keep a record of the date  
641 and time of any face-to-face interaction with the resident and  
642 make the record available to the responsible entity for  
643 inspection. The record must be retained for at least 2 years  
644 after the date of the most recent interaction.

645 (f) Consistent monitoring and implementation of community  
646 living support plans and cooperative agreements are conducted by  
647 the resident's case manager.

648 (g) Concerns are reported to the appropriate regulatory



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649 oversight organization if a regulated provider fails to deliver  
650 appropriate services or otherwise acts in a manner that has the  
651 potential to result in harm to the resident.

652 (3) The secretary ~~of Children and Families~~, in consultation  
653 with the Agency for Health Care Administration, shall require  
654 each regional ~~district~~ administrator to develop, with community  
655 input, a detailed annual plan that demonstrates how the regional  
656 office, in cooperation with service providers, district will  
657 ensure the provision of state-funded mental health and substance  
658 abuse treatment services to residents of assisted living  
659 facilities that hold a limited mental health license. This plan  
660 must ~~be consistent with the substance abuse and mental health~~  
661 ~~district plan developed pursuant to s. 394.75 and must~~ address  
662 case management services; access to consumer-operated drop-in  
663 centers; access to services during evenings, weekends, and  
664 holidays; supervision of the clinical needs of the residents;  
665 and access to emergency psychiatric care.

666 Section 6. Section 394.458, Florida Statutes, is amended to  
667 read:

668 394.458 Introduction or removal of certain articles  
669 unlawful; penalty.—

670 (1)~~(a)~~ Except as authorized by the facility administrator  
671 for a lawful purpose ~~law or as specifically authorized by the~~  
672 ~~person in charge of each hospital providing mental health~~  
673 ~~services under this part, it is unlawful to knowingly and~~  
674 intentionally bring into any facility providing services under  
675 this part, or to take or attempt to take or send therefrom, any  
676 of the following articles ~~introduce into or upon the grounds of~~  
677 ~~such hospital, or to take or attempt to take or send therefrom,~~



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678 ~~any of the following articles, which are hereby declared to be~~  
679 ~~contraband for the purposes of this section:~~

680 (a)1. Any intoxicating beverage or beverage which causes or  
681 may cause an intoxicating effect;

682 (b)2. Any controlled substance as defined in chapter 893;

683 (c) Any imitation controlled substance as defined in s.  
684 817.564; or

685 (d)3. Any firearms or deadly weapon, except for certified  
686 law enforcement officers acting in their official capacity.

687 ~~(b) It is unlawful to transmit to, or attempt to transmit~~  
688 ~~to, or cause or attempt to cause to be transmitted to, or~~  
689 ~~received by, any patient of any hospital providing mental health~~  
690 ~~services under this part any article or thing declared by this~~  
691 ~~section to be contraband, at any place which is outside of the~~  
692 ~~grounds of such hospital, except as authorized by law or as~~  
693 ~~specifically authorized by the person in charge of such~~  
694 ~~hospital.~~

695 (2) A person who violates any provision of this section  
696 commits a felony of the third degree, punishable as provided in  
697 s. 775.082, s. 775.083, or s. 775.084.

698 (3) A facility providing services under this part shall  
699 post at each entry point of the facility a conspicuous notice  
700 that includes the text of this section.

701 Section 7. Section 394.459, Florida Statutes, is amended to  
702 read:

703 394.459 Rights of individuals receiving mental health  
704 treatment and services patients.—

705 (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.—It is the policy of this  
706 state that the ~~individual~~ dignity of all individuals held for



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707 examination or admitted for mental health treatment ~~the patient~~  
708 ~~shall~~ be respected at all times and upon all occasions,  
709 including ~~any occasion~~ when the individual patient is taken into  
710 custody, held, or transported. Procedures, facilities, vehicles,  
711 and restraining devices used ~~utilized~~ for criminals or those  
712 accused of a crime ~~may shall~~ not be used in connection with  
713 individuals ~~persons~~ who have a mental illness, except for the  
714 protection of the individual patient or others. Individuals  
715 ~~Persons~~ who have a mental illness but who are not charged with a  
716 criminal offense may shall not be detained or incarcerated in  
717 the jails of this state. An individual ~~A person~~ who is receiving  
718 treatment for mental illness may shall not be deprived of any  
719 constitutional rights. However, if such an individual ~~a person~~  
720 is adjudicated incapacitated, his or her rights may be limited  
721 to the same extent the rights of any incapacitated individual  
722 ~~person~~ are limited by law.

723 (2) RIGHT TO TREATMENT.—An individual held for examination  
724 or admitted for mental health treatment:

725 (a) Shall ~~A person shall~~ not be denied treatment for mental  
726 illness and services shall not be delayed at a receiving or  
727 treatment facility because of inability to pay. However, every  
728 reasonable effort to collect appropriate reimbursement for the  
729 cost of providing mental health services from individuals ~~to~~  
730 ~~persons~~ able to pay for services, including insurance or third-  
731 party payers ~~payments~~, shall be made by facilities providing  
732 services under ~~pursuant to~~ this part.

733 (b) Shall be provided ~~It is further the policy of the state~~  
734 ~~that~~ the least restrictive appropriate available treatment ~~be~~  
735 ~~utilized~~ based on the individual's ~~individual~~ needs and best



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736 ~~interests, of the patient and~~ consistent with the optimum  
737 improvement of the individual's ~~patient's~~ condition.

738 (c) ~~Each person who remains at a receiving or treatment~~  
739 ~~facility for more than 12 hours~~ Shall be given a physical  
740 examination by a health practitioner authorized by law to give  
741 such examinations and a mental health evaluation by a  
742 psychiatrist, psychologist, or psychiatric nurse, in a mental  
743 health receiving facility, within 24 hours after arrival at the  
744 facility if the individual has not been released or discharged  
745 pursuant to s. 394.463(2)(h) or s. 394.469. The physical  
746 examination and mental health evaluation must be documented in  
747 the clinical record. The physical and mental health examinations  
748 shall include efforts to identify indicators and symptoms of  
749 substance abuse impairment, substance abuse intoxication, and  
750 substance abuse withdrawal, within 24 hours after arrival at  
751 such facility.

752 (d) ~~Every patient in a facility~~ Shall be afforded the  
753 opportunity to participate in activities designed to enhance  
754 self-image and the beneficial effects of other treatments, as  
755 determined by the facility.

756 (e) Not more than 5 days after admission to a facility,  
757 each patient Shall have and receive an individualized treatment  
758 plan in writing which the individual ~~patient~~ has had an  
759 opportunity to assist in preparing and to review before ~~prior to~~  
760 ~~its~~ implementation. The plan must ~~shall~~ include a space for the  
761 individual's ~~patient's~~ comments and signature.

762 (3) RIGHT TO EXPRESS AND INFORMED ~~PATIENT~~ CONSENT.—

763 ~~(a)1.~~ Each individual ~~patient~~ entering treatment shall be  
764 asked to give express and informed consent for admission or



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765 treatment.

766       (a) If the individual patient has been adjudicated  
767 incapacitated or found to be incompetent to consent to  
768 treatment, express and informed consent must ~~to treatment shall~~  
769 be sought instead from his or her the patient's guardian or  
770 guardian advocate or health care surrogate or proxy. If the  
771 individual patient is a minor, express and informed consent for  
772 admission or treatment must be obtained from the minor's ~~shall~~  
773 ~~also be requested from the patient's guardian. Express and~~  
774 ~~informed consent for admission or treatment of a patient under~~  
775 ~~18 years of age shall be required from the patient's guardian,~~  
776 unless the minor is seeking outpatient crisis intervention  
777 services under s. 394.4784. ~~Express and informed consent for~~  
778 ~~admission or treatment given by a patient who is under 18 years~~  
779 ~~of age shall not be a condition of admission when the patient's~~  
780 ~~guardian gives express and informed consent for the patient's~~  
781 ~~admission pursuant to s. 394.463 or s. 394.467.~~

782       (b)~~2~~. Before giving express and informed consent, the  
783 following information shall be provided and explained in plain  
784 language to the individual and to his or her patient, ~~or to the~~  
785 ~~patient's~~ guardian if the individual is an adult patient is 18  
786 ~~years of age or older~~ and has been adjudicated incapacitated, ~~or~~  
787 to his or her the patient's guardian advocate if the individual  
788 ~~patient~~ has been found to be incompetent to consent to  
789 treatment, to the health care surrogate or proxy, or to both the  
790 individual patient and the guardian if the individual patient is  
791 a minor;~~÷~~ the reason for admission or treatment; the proposed  
792 treatment; the purpose of the treatment to be provided; the  
793 common risks, benefits, and side effects ~~thereof~~; the specific



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794 dosage range for the medication, ~~if when~~ applicable; alternative  
795 treatment modalities; the approximate length of care; the  
796 potential effects of stopping treatment; how treatment will be  
797 monitored; and that any consent given for treatment may be  
798 revoked orally or in writing before or during the treatment  
799 period by the individual receiving treatment ~~patient~~ or by a  
800 person who is legally authorized to make health care decisions  
801 on the individual's behalf ~~of the patient~~.

802 ~~(b) In the case of medical procedures requiring the use of~~  
803 ~~a general anesthetic or electroconvulsive treatment, and prior~~  
804 ~~to performing the procedure, express and informed consent shall~~  
805 ~~be obtained from the patient if the patient is legally~~  
806 ~~competent, from the guardian of a minor patient, from the~~  
807 ~~guardian of a patient who has been adjudicated incapacitated, or~~  
808 ~~from the guardian advocate of the patient if the guardian~~  
809 ~~advocate has been given express court authority to consent to~~  
810 ~~medical procedures or electroconvulsive treatment as provided~~  
811 ~~under s. 394.4598.~~

812 ~~(c) When the department is the legal guardian of a patient,~~  
813 ~~or is the custodian of a patient whose physician is unwilling to~~  
814 ~~perform a medical procedure, including an electroconvulsive~~  
815 ~~treatment, based solely on the patient's consent and whose~~  
816 ~~guardian or guardian advocate is unknown or unlocatable, the~~  
817 ~~court shall hold a hearing to determine the medical necessity of~~  
818 ~~the medical procedure. The patient shall be physically present,~~  
819 ~~unless the patient's medical condition precludes such presence,~~  
820 ~~represented by counsel, and provided the right and opportunity~~  
821 ~~to be confronted with, and to cross-examine, all witnesses~~  
822 ~~alleging the medical necessity of such procedure. In such~~





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823 ~~proceedings, the burden of proof by clear and convincing~~  
824 ~~evidence shall be on the party alleging the medical necessity of~~  
825 ~~the procedure.~~

826 ~~(d) The administrator of a receiving or treatment facility~~  
827 ~~may, upon the recommendation of the patient's attending~~  
828 ~~physician, authorize emergency medical treatment, including a~~  
829 ~~surgical procedure, if such treatment is deemed lifesaving, or~~  
830 ~~if the situation threatens serious bodily harm to the patient,~~  
831 ~~and permission of the patient or the patient's guardian or~~  
832 ~~guardian advocate cannot be obtained.~~

833 (4) QUALITY OF TREATMENT.—

834 (a) Each individual held for examination, admitted for  
835 mental health treatment, or receiving involuntary treatment  
836 ~~patient~~ shall receive services that are, including, for a  
837 ~~patient placed under s. 394.4655, those services included in the~~  
838 ~~court order which are suited to his or her needs, and which~~  
839 ~~shall be~~ administered skillfully, safely, and humanely with full  
840 respect for the individual's ~~patient's~~ dignity and personal  
841 integrity. Each individual ~~patient~~ shall receive such medical,  
842 vocational, social, educational, and rehabilitative services as  
843 his or her condition requires in order to live successfully in  
844 the community. In order to achieve this goal, the department  
845 shall ~~is directed to~~ coordinate its mental health programs with  
846 all other programs of the department and other state agencies.

847 (b) Facilities shall develop and maintain, in a form  
848 accessible to and readily understandable by individuals held for  
849 examination, admitted for mental health treatment, or receiving  
850 involuntary treatment ~~patients~~ and consistent with rules adopted  
851 by the department, ~~the following:~~



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852           1. Criteria, procedures, and required staff training for  
853 the any use of close or elevated levels of supervision; ~~of~~  
854 restraint, seclusion, or isolation; ~~or of~~ emergency treatment  
855 orders; ~~and for the use of~~ bodily control and physical  
856 management techniques.

857           2. Procedures for documenting, monitoring, and requiring  
858 clinical review of all uses of the procedures described in  
859 subparagraph 1. and for documenting and requiring review of any  
860 incidents resulting in injury to individuals receiving services  
861 patients.

862           3. A system for investigating, tracking, managing, and  
863 responding to complaints by individuals ~~persons~~ receiving  
864 services or persons ~~individuals~~ acting on their behalf.

865           (c) Receiving and treatment facilities shall have written  
866 procedures for reporting events that place individuals receiving  
867 services at risk of harm. Such events must be reported to the  
868 department as soon as reasonably possible after discovery and  
869 include, but are not limited to:

870           1. The death, regardless of cause or manner, of an  
871 individual examined or treated at a facility that occurs while  
872 the individual is at the facility or that occurs within 72 hours  
873 after release, if the death is known to the facility  
874 administrator.

875           2. An injury sustained, or allegedly sustained, at a  
876 facility, by an individual examined or treated at the facility  
877 and caused by an accident, self-injury, assault, act of abuse,  
878 neglect, or suicide attempt, if the injury requires medical  
879 treatment by a licensed health care practitioner in an acute  
880 care medical facility.



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881           3. The unauthorized departure or absence of an individual  
882 from a facility in which he or she has been held for involuntary  
883 examination or involuntary treatment.

884           4. A disaster or crisis situation such as a tornado,  
885 hurricane, kidnapping, riot, or hostage situation that  
886 jeopardizes the health, safety, or welfare of individuals  
887 examined or treated in a facility.

888           5. An allegation of sexual battery upon an individual  
889 examined or treated in a facility.

890           (d)(e) A facility may not use seclusion or restraint for  
891 punishment, in compensation to compensate for inadequate  
892 staffing, or for the convenience of staff. Facilities shall  
893 ensure that all staff, contractors, and volunteers are made  
894 aware of these restrictions ~~on the use of seclusion and~~  
895 ~~restraint and shall make~~ and maintain records which demonstrate  
896 that this information has been conveyed to each staff member,  
897 contractor, and volunteer individual staff members.

898           (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

899           (a) Each individual held for examination or admitted for  
900 mental health treatment person receiving services in a facility  
901 providing ~~mental health~~ services under this part has the right  
902 to communicate freely and privately with persons outside the  
903 facility unless it is determined that such communication is  
904 likely to be harmful to the individual person or others. Each  
905 facility shall make ~~available as soon as reasonably possible to~~  
906 ~~persons receiving services~~ a telephone that allows for free  
907 local calls and access to a long-distance service available to  
908 the individual as soon as reasonably possible. A facility is not  
909 required to pay the costs of an individual's a patient's long-



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910 distance calls. The telephone must ~~shall~~ be readily accessible  
911 ~~to the patient~~ and ~~shall be~~ placed so that the individual  
912 ~~patient~~ may use it to communicate privately and confidentially.  
913 The facility may establish reasonable rules for the use of this  
914 telephone ~~which, provided that the rules~~ do not interfere with  
915 an individual's ~~a patient's~~ access to a telephone to report  
916 abuse pursuant to paragraph (e).

917 (b) Each individual ~~patient~~ admitted to a facility under  
918 ~~the provisions of~~ this part is ~~shall be~~ allowed to receive,  
919 send, and mail sealed, unopened correspondence; and the  
920 individual's ~~no patient's~~ incoming or outgoing correspondence  
921 may not ~~shall~~ be opened, delayed, held, or censored by the  
922 facility unless there is reason to believe that it contains  
923 items or substances that ~~which~~ may be harmful to the individual  
924 ~~patient~~ or others, in which case the administrator may direct  
925 reasonable examination of such mail and may regulate the  
926 disposition of such items or substances.

927 (c) Each facility shall allow ~~must permit~~ immediate access  
928 to an individual held for examination or admitted for mental  
929 health treatment ~~any patient~~, subject to the ~~patient's~~ right to  
930 deny or withdraw consent at any time, by the individual, or by  
931 the individual's ~~patient's~~ family members, guardian, guardian  
932 advocate, health care surrogate or proxy, representative,  
933 ~~Florida statewide or local advocacy council~~, or attorney, unless  
934 such access would be detrimental to the individual ~~patient~~. If  
935 the ~~a patient's~~ right to communicate or to receive visitors is  
936 restricted by the facility, written notice of such restriction  
937 and the reasons for the restriction shall be served on the  
938 individual and the individual's attorney, ~~patient, the patient's~~



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939 ~~attorney, and the patient's~~ guardian, guardian advocate, health  
940 care surrogate or proxy, or representative; and such restriction  
941 and the reason for the restriction, shall be recorded ~~in~~ on the  
942 ~~patient's~~ clinical record ~~with the reasons therefor.~~ The  
943 restriction must ~~of a patient's right to communicate or to~~  
944 ~~receive visitors shall~~ be reviewed at least every 7 days. The  
945 right to communicate or receive visitors may ~~shall~~ not be  
946 restricted as a means of punishment. ~~Nothing in~~ This paragraph  
947 does not shall be construed to limit the establishment of rules  
948 under provisions of paragraph (d).

949 (d) Each facility shall establish reasonable rules  
950 governing visitors, visiting hours, and the use of telephones by  
951 individuals held for examination or admitted for mental health  
952 treatment patients in the least restrictive possible manner. An  
953 individual has ~~Patients shall have~~ the right to contact and to  
954 receive communication from his or her ~~their~~ attorneys at any  
955 reasonable time.

956 (e) Each individual held for examination or admitted for  
957 mental health treatment patient receiving mental health  
958 ~~treatment in any facility~~ shall have ready access to a telephone  
959 in order to report an alleged abuse. The facility staff shall  
960 orally and in writing inform each individual ~~patient~~ of the  
961 procedure for reporting abuse and shall make every reasonable  
962 effort to present the information in a language that the  
963 individual ~~patient~~ understands. A written copy of that  
964 procedure, including the telephone number of the central abuse  
965 hotline and reporting forms, shall be posted in plain view.

966 (f) The department must ~~shall~~ adopt rules providing a  
967 procedure for reporting alleged abuse. Facility staff ~~shall be~~



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968 ~~required~~, as a condition of employment, must ~~to~~ become familiar  
969 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

970 (6) CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS~~. The  
971 rights of an individual held for examination or admitted for  
972 mental health treatment ~~A patient's right~~ to the possession of  
973 his or her clothing and personal effects shall be respected. The  
974 facility may take temporary custody of such effects if when  
975 required for medical and safety reasons. The ~~A patient's~~  
976 clothing and personal effects shall be inventoried upon their  
977 removal into temporary custody. Copies of this inventory shall  
978 be given to the individual and his or her ~~patient and to the~~  
979 ~~patient's~~ guardian, guardian advocate, health care surrogate or  
980 proxy, or representative and shall be recorded in the ~~patient's~~  
981 clinical record. This inventory may be amended upon the request  
982 of the individual and his or her ~~patient or the patient's~~  
983 guardian, guardian advocate, health care surrogate or proxy, or  
984 representative. The inventory and any amendments to it must be  
985 witnessed by two members of the facility staff and by the  
986 individual patient, if able. All of the ~~a patient's~~ clothing and  
987 personal effects held by the facility must ~~shall~~ be returned to  
988 the individual patient immediately upon his or her ~~the~~ discharge  
989 or transfer ~~of the patient~~ from the facility, unless such return  
990 would be detrimental to the individual patient. If personal  
991 effects are not returned ~~to the patient~~, the reason must be  
992 documented in the clinical record along with the disposition of  
993 the clothing and personal effects, which may be given instead to  
994 the individual's ~~patient's~~ guardian, guardian advocate, health  
995 care surrogate or proxy, or representative. As soon as  
996 practicable after an emergency transfer ~~of a patient~~, the



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997 individual's ~~patient's~~ clothing and personal effects shall be  
998 transferred to the individual's ~~patient's~~ new location, together  
999 with a copy of the inventory and any amendments, unless an  
1000 alternate plan is approved by the individual ~~patient~~, if he or  
1001 she is able, and by his or her ~~the patient's~~ guardian, guardian  
1002 advocate, health care surrogate or proxy, or representative.

1003 (7) VOTING IN PUBLIC ELECTIONS.—An individual held for  
1004 examination or admitted for mental health treatment ~~A patient~~  
1005 who is eligible to vote according to the laws of the state has  
1006 the right to vote in ~~the~~ primary, and general, and special  
1007 elections. The department shall establish rules to enable such  
1008 individuals ~~patients~~ to obtain voter registration forms,  
1009 applications for vote-by-mail ballots, and vote-by-mail ballots.

1010 (8) HABEAS CORPUS.—

1011 (a) At any time, and without notice, an individual held for  
1012 mental health examination or admitted for inpatient treatment in  
1013 ~~a person held in a receiving or treatment~~ facility, or a  
1014 relative, friend, guardian, guardian advocate, health care  
1015 surrogate or proxy, representative, or attorney, or the  
1016 department, on behalf of such individual ~~person~~, may petition  
1017 for a writ of habeas corpus to question the cause and legality  
1018 of such detention and request that the court order a return to  
1019 the writ in accordance with chapter 79. Each individual ~~patient~~  
1020 held in a facility shall receive a written notice of the right  
1021 to petition for a writ of habeas corpus.

1022 (b) At any time, and without notice, an individual held for  
1023 mental health examination or admitted for inpatient treatment ~~a~~  
1024 ~~person who is a patient~~ in a ~~receiving or treatment~~ facility, or  
1025 a relative, friend, guardian, guardian advocate, health care



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1026 surrogate or proxy, representative, or attorney, or the  
1027 department, on behalf of such individual person, may file a  
1028 petition in the circuit court in the county where the individual  
1029 ~~patient~~ is being held alleging that he or she ~~the patient~~ is  
1030 being unjustly denied a right or privilege granted under this  
1031 part herein or that a procedure authorized under this part  
1032 ~~herein~~ is being abused. Upon the filing of such a petition, the  
1033 court may ~~shall have the authority~~ to conduct a judicial inquiry  
1034 and ~~to~~ issue any order ~~needed~~ to correct an abuse of the  
1035 provisions of this part.

1036 (c) The administrator of any ~~receiving or treatment~~  
1037 facility receiving a petition under this subsection shall file  
1038 the petition with the clerk of the court no later than on the  
1039 next court working day.

1040 (d) A ~~No~~ fee may not ~~shall~~ be charged for ~~the~~ filing ~~of~~ a  
1041 petition under this subsection.

1042 (9) VIOLATIONS.—The department shall report to the Agency  
1043 for Health Care Administration any violation of the rights or  
1044 privileges of individuals patients, or of any procedures  
1045 provided under this part, by any facility or professional  
1046 licensed or regulated under state law ~~by the agency~~. ~~The agency~~  
1047 ~~is authorized to impose~~ Any sanction authorized for violation of  
1048 this part may be imposed, based solely on the investigation and  
1049 findings of the department.

1050 (10) LIABILITY FOR VIOLATIONS.—~~A~~ ~~Any~~ person who violates or  
1051 abuses the any rights or privileges of individuals held or  
1052 admitted for mental health treatment patients provided under ~~by~~  
1053 this part is liable for damages as determined by law. A ~~Any~~  
1054 person who acts reasonably, in good faith, and without





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1055 negligence in compliance with ~~the provisions of~~ this part is  
1056 immune from civil or criminal liability for his or her actions  
1057 in connection with the preparation or execution of petitions,  
1058 applications, certificates, reports, or other documents  
1059 initiating admission to a facility or the apprehension,  
1060 detention, transportation, examination, admission, diagnosis,  
1061 treatment, or discharge of an individual ~~a patient~~ to or from a  
1062 facility. ~~However, this section does not relieve any person from~~  
1063 ~~liability if such person commits negligence.~~

1064 (11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE  
1065 PLANNING.—An individual held for examination or admitted for  
1066 mental health treatment ~~The patient~~ shall have the opportunity  
1067 to participate in treatment and discharge planning and shall be  
1068 notified in writing of his or her right, upon discharge from the  
1069 facility, to seek treatment from the professional or agency of  
1070 the individual's ~~patient's~~ choice.

1071 (12) POSTING OF NOTICE OF RIGHTS ~~OF PATIENTS~~.—Each facility  
1072 shall post a notice that lists and describes ~~listing and~~  
1073 ~~describing,~~ in the language and terminology that the individual  
1074 ~~persons to whom the notice is addressed~~ can understand, the  
1075 rights provided under ~~in~~ this section. This notice must ~~shall~~  
1076 include a statement that ~~provisions of~~ the federal Americans  
1077 with Disabilities Act apply and the name and telephone number of  
1078 a person to contact for further information. The ~~This~~ notice  
1079 must ~~shall~~ be posted in a place readily accessible to  
1080 individuals ~~patients~~ and in a format easily seen by the  
1081 individuals served ~~patients~~. The ~~This~~ notice must ~~shall~~ include  
1082 the telephone numbers of Disability Rights Florida, Inc ~~the~~  
1083 ~~Florida local advocacy council and Advocacy Center for Persons~~



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1084 ~~with Disabilities, Inc.~~

1085 Section 8. Section 394.4593, Florida Statutes, is amended  
1086 to read:

1087 394.4593 Sexual misconduct prohibited; reporting required;  
1088 penalties.—

1089 (1) As used in this section, the term:

1090 (a) "Employee" means ~~includes any~~ paid staff member,  
1091 volunteer, or intern of the department or a service provider  
1092 providing services pursuant to this part; any person under  
1093 contract with the department or a service provider providing  
1094 services pursuant to this part; and any person providing care or  
1095 support to an individual ~~a client~~ on behalf of the department or  
1096 its service providers.

1097 (b) "Sexual activity" means:

1098 1. Fondling the genital area, groin, inner thighs,  
1099 buttocks, or breasts of an individual ~~a person~~.

1100 2. The oral, anal, or vaginal penetration by or union with  
1101 the sexual organ of another or the anal or vaginal penetration  
1102 of another by any other object.

1103 3. Intentionally touching in a lewd or lascivious manner  
1104 the breasts, genitals, the genital area, or buttocks, or the  
1105 clothing covering them, of an individual ~~a person~~, or forcing or  
1106 enticing an individual ~~a person~~ to touch the perpetrator.

1107 4. Intentionally masturbating in the presence of another  
1108 individual person.

1109 5. Intentionally exposing the genitals in a lewd or  
1110 lascivious manner in the presence of another individual ~~person~~.

1111 6. Intentionally committing any other sexual act that does  
1112 not involve actual physical or sexual contact with another



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1113 individual ~~the victim~~, including, but not limited to,  
1114 sadomasochistic abuse, sexual bestiality, or the simulation of  
1115 any act involving sexual activity in the presence of the  
1116 individual ~~a victim~~.

1117 (c) "Sexual misconduct" means any sexual activity between  
1118 an employee and an individual held or admitted for examination  
1119 or treatment pursuant to this part ~~a patient~~, regardless of the  
1120 consent of that individual ~~the patient~~. The term does not  
1121 include an act done for a bona fide medical purpose or an  
1122 internal search conducted in the lawful performance of duty by  
1123 an employee.

1124 (2) An employee who engages in sexual misconduct with an  
1125 individual ~~a patient who:~~

1126 ~~(a) Is in the custody of the department; or~~

1127 ~~(b) Resides in a receiving facility or a treatment~~  
1128 ~~facility, as those terms are defined in s. 394.455,~~

1129  
1130 commits a felony of the second degree, punishable as provided in  
1131 s. 775.082, s. 775.083, or s. 775.084. An employee may be found  
1132 guilty of violating this subsection without having committed the  
1133 crime of sexual battery.

1134 (3) The consent of an individual held or admitted for  
1135 examination or treatment ~~the patient~~ to sexual activity is not a  
1136 defense to prosecution under this section.

1137 (4) This section does not apply to an employee who, at the  
1138 time of the sexual activity:

1139 (a) Is legally married to the individual involved in the  
1140 sexual activity ~~patient~~; or

1141 (b) Has no reason to believe that the individual involved



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1142 in the sexual activity is held or admitted for examination or  
1143 treatment pursuant to this part ~~person with whom the employee~~  
1144 ~~engaged in sexual misconduct is a patient receiving services as~~  
1145 ~~described in subsection (2).~~

1146 (5) An employee who witnesses sexual misconduct, or who  
1147 otherwise knows or has reasonable cause to suspect that a person  
1148 has engaged in sexual misconduct, shall immediately report the  
1149 incident to the department's central abuse hotline and to the  
1150 appropriate local law enforcement agency. Such employee shall  
1151 also prepare, date, and sign an independent report that  
1152 specifically describes the nature of the sexual misconduct, the  
1153 location and time of the incident, and the persons involved. The  
1154 employee shall deliver the report to the supervisor or program  
1155 director, who is responsible for providing copies to the  
1156 department's inspector general. The inspector general shall  
1157 immediately conduct an appropriate administrative investigation,  
1158 and, if there is probable cause to believe that sexual  
1159 misconduct has occurred, the inspector general shall notify the  
1160 state attorney in the circuit in which the incident occurred.

1161 (6) (a) Any person who is required to make a report under  
1162 this section and who knowingly or willfully fails to do so, or  
1163 who knowingly or willfully prevents another person from doing  
1164 so, commits a misdemeanor of the first degree, punishable as  
1165 provided in s. 775.082 or s. 775.083.

1166 (b) Any person who knowingly or willfully submits  
1167 inaccurate, incomplete, or untruthful information with respect  
1168 to a report required under this section commits a misdemeanor of  
1169 the first degree, punishable as provided in s. 775.082 or s.  
1170 775.083.



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1171 (c) Any person who knowingly or willfully coerces or  
1172 threatens any other person with the intent to alter testimony or  
1173 a written report regarding an incident of sexual misconduct  
1174 commits a felony of the third degree, punishable as provided in  
1175 s. 775.082, s. 775.083, or s. 775.084.

1176 (7) The provisions and penalties set forth in this section  
1177 are in addition to any other civil, administrative, or criminal  
1178 action provided by law which may be applied against an employee.

1179 Section 9. Section 394.4595, Florida Statutes, is repealed.

1180 Section 10. Section 394.4596, Florida Statutes, is created  
1181 to read:

1182 394.4596 Federally mandated protection and advocacy system  
1183 for individuals with disabilities.—The agency designated by the  
1184 governor as the federally mandated protection and advocacy  
1185 system for individuals with disabilities has specific access  
1186 authority under federal law to facilities, individuals,  
1187 information, and records. Any facility defined in s. 394.455(12)  
1188 shall allow this agency to exercise access authority provided to  
1189 it by state and federal law.

1190 Section 11. Section 394.4597, Florida Statutes, is amended  
1191 to read:

1192 394.4597 Persons to be notified; individual's ~~patient's~~  
1193 representative.—

1194 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual  
1195 ~~a patient~~ is voluntarily admitted to a receiving or treatment  
1196 facility, the individual shall be asked to identify a person to  
1197 be notified in case of an emergency, and the identity and  
1198 contact information of that a person to be notified in case of  
1199 ~~an emergency~~ shall be entered in the patient's clinical record.



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1200 (2) INVOLUNTARY ADMISSION PATIENTS.—

1201 (a) At the time an individual ~~a patient~~ is admitted to a  
1202 facility for involuntary examination or services placement, or  
1203 when a petition for involuntary services placement is filed, the  
1204 name, address, and telephone number ~~names, addresses, and~~  
1205 ~~telephone numbers~~ of the individual's ~~patient's~~ guardian or  
1206 guardian advocate, health care surrogate or proxy, or  
1207 representative if he or she ~~the patient~~ has no guardian, and the  
1208 individual's ~~patient's~~ attorney shall be entered in the  
1209 ~~patient's~~ clinical record.

1210 (b) If the individual ~~patient~~ has no guardian, guardian  
1211 advocate, health care surrogate, or proxy, ~~he or she the patient~~  
1212 shall be asked to designate a representative. If the individual  
1213 ~~patient~~ is unable or unwilling to designate a representative,  
1214 the facility shall select a representative.

1215 (c) The individual ~~patient~~ shall be consulted with regard  
1216 to the selection of a representative by the receiving or  
1217 treatment facility and may ~~shall have authority to~~ request that  
1218 the any such representative be replaced.

1219 (d) ~~If~~ When the receiving or treatment facility selects a  
1220 representative, first preference shall be given to a health care  
1221 surrogate, if one has been previously selected ~~by the patient~~.  
1222 If the individual ~~patient~~ has not previously selected a health  
1223 care surrogate, the selection, except for good cause documented  
1224 in the ~~patient's~~ clinical record, shall be made from the  
1225 following list in the order of listing:

- 1226 1. The individual's ~~patient's~~ spouse.
- 1227 2. An adult child of the individual ~~patient~~.
- 1228 3. A parent of the individual ~~patient~~.



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- 1229 4. The adult next of kin of the individual patient.
- 1230 5. An adult friend of the individual patient.
- 1231 (e) The following persons are prohibited from selection as
- 1232 an individual's a patient's representative:
- 1233 1. A professional providing clinical services to the
- 1234 individual patient under this part.
- 1235 2. The licensed professional who initiated the involuntary
- 1236 examination of the individual patient, if the examination was
- 1237 initiated by professional certificate.
- 1238 3. An employee, a volunteer, a contractor, an
- 1239 administrator, or a board member of the facility providing the
- 1240 examination of the individual patient.
- 1241 4. An employee, a volunteer, a contractor, an
- 1242 administrator, or a board member of a treatment facility
- 1243 providing treatment for the individual patient.
- 1244 5. A person providing any substantial professional services
- 1245 to the individual patient, including clinical services.
- 1246 6. A creditor of the individual patient.
- 1247 7. A person who is a party subject to an injunction for
- 1248 protection against domestic violence under s. 741.30, whether
- 1249 the order of injunction is temporary or final, and for which the
- 1250 individual patient was the petitioner.
- 1251 8. A person who is a party subject to an injunction for
- 1252 protection against repeat violence, stalking, sexual violence,
- 1253 or dating violence under s. 784.046, whether the order of
- 1254 injunction is temporary or final, and for which the individual
- 1255 patient was the petitioner.
- 1256 (f) The representative selected by the individual or
- 1257 designated by the facility has the right, authority, and



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- 1258 responsibility to:
- 1259 1. Receive notice of the individual's admission;
- 1260 2. Receive notice of proceedings affecting the individual;
- 1261 3. Have immediate access to the individual unless such
- 1262 access is documented to be detrimental to the individual;
- 1263 4. Receive notice of any restriction of the individual's
- 1264 right to communicate or receive visitors;
- 1265 5. Receive a copy of the inventory of clothing and personal
- 1266 effects upon the individual's admission and to request an
- 1267 amendment to the inventory at any time;
- 1268 6. Receive disposition of the individual's clothing and
- 1269 personal effects if not returned to the individual, or to
- 1270 approve an alternate plan;
- 1271 7. Petition on behalf of the individual for a writ of
- 1272 habeas corpus to question the cause and legality of the
- 1273 individual's detention or to allege that the individual is being
- 1274 unjustly denied a right or privilege granted under this part, or
- 1275 that a procedure authorized under this part is being abused;
- 1276 8. Apply for a change of venue for the individual's
- 1277 involuntary services placement hearing for the convenience of
- 1278 the parties or witnesses or because of the individual's
- 1279 condition;
- 1280 9. Receive written notice of any restriction of the
- 1281 individual's right to inspect his or her clinical record;
- 1282 10. Receive notice of the release of the individual from a
- 1283 receiving facility where an involuntary examination was
- 1284 performed;
- 1285 11. Receive a copy of any petition for the individual's
- 1286 involuntary services filed with the court; and





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1287           12. Be informed by the court of the individual's right to  
1288 an independent expert evaluation pursuant to involuntary  
1289 services procedures.

1290           Section 12. Section 394.4598, Florida Statutes, is amended  
1291 to read:

1292           394.4598 Guardian advocate.—

1293           (1) The administrator may petition the court for the  
1294 appointment of a guardian advocate based upon the opinion of a  
1295 psychiatrist that an individual held for examination or admitted  
1296 for mental health treatment ~~the patient~~ is incompetent to  
1297 consent to treatment. If the court finds that the individual a  
1298 ~~patient~~ is incompetent to consent to treatment and has not been  
1299 adjudicated incapacitated and a guardian having with the  
1300 authority to consent to mental health or substance abuse  
1301 treatment has not been appointed, it shall appoint a guardian  
1302 advocate. The individual patient has the right to have an  
1303 attorney represent him or her at the hearing. If the individual  
1304 is not otherwise represented by counsel and person is indigent,  
1305 the court shall appoint the office of the public defender to  
1306 represent him or her at the hearing. The individual patient has  
1307 the right to testify, cross-examine witnesses, and present  
1308 witnesses. The proceeding must ~~shall~~ be recorded ~~either~~  
1309 electronically or stenographically, and testimony shall be  
1310 ~~provided~~ under oath. One of the professionals authorized to give  
1311 an opinion in support of a petition for involuntary services  
1312 placement, as described in ~~s. 394.4655 or s. 394.467~~, shall ~~must~~  
1313 testify. The A guardian advocate shall ~~must~~ meet the  
1314 qualifications of a guardian pursuant to ~~contained in~~ part IV of  
1315 chapter 744. A person may not be appointed as a guardian



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1316 advocate unless he or she agrees, ~~except that a professional~~  
1317 ~~referred to in this part, an employee of the facility providing~~  
1318 ~~direct services to the patient under this part, a departmental~~  
1319 ~~employee, a facility administrator, or member of the Florida~~  
1320 ~~local advocacy council shall not be appointed. A person who is~~  
1321 ~~appointed as a guardian advocate must agree to the appointment.~~

1322 (2) The following persons are prohibited from being  
1323 appointed as an individual's ~~appointment as a patient's~~ guardian  
1324 advocate:

1325 (a) A professional providing clinical services to the  
1326 individual ~~patient~~ under this part.

1327 (b) The licensed professional who initiated the involuntary  
1328 examination of the individual ~~patient~~, if the examination was  
1329 initiated by professional certificate.

1330 (c) An employee, a contractor, a volunteer, an  
1331 administrator, or a board member of the facility providing the  
1332 examination of the individual ~~patient~~.

1333 (d) An employee, a contractor, a volunteer, an  
1334 administrator, or a board member of a treatment facility  
1335 providing treatment of the individual ~~patient~~.

1336 (e) A person providing any substantial professional  
1337 services, excluding public and professional guardians, to the  
1338 individual ~~patient~~, including clinical services.

1339 (f) A creditor of the individual ~~patient~~.

1340 (g) A party ~~person~~ ~~subject~~ to an injunction for protection  
1341 against domestic violence under s. 741.30, whether the order of  
1342 injunction is temporary or final, and for which the individual  
1343 ~~patient~~ was the petitioner.

1344 (h) A party ~~person~~ ~~subject~~ to an injunction for protection



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1345 against repeat violence, stalking, sexual violence, or dating  
1346 violence under s. 784.046, whether the order of injunction is  
1347 temporary or final, and for which the individual patient was the  
1348 petitioner.

1349 (3) A facility requesting appointment of a guardian  
1350 advocate shall, before ~~must, prior to~~ the appointment, provide  
1351 the prospective guardian advocate with information concerning  
1352 ~~about~~ the duties and responsibilities of guardian advocates,  
1353 including the information about the ethics of medical  
1354 decisionmaking. Before asking a guardian advocate to give  
1355 consent to treatment for an individual held for examination or  
1356 admitted for mental health treatment a patient, the facility  
1357 shall provide all disclosures required under s. 394.459(3)(a)2  
1358 ~~to the guardian advocate sufficient information so that the~~  
1359 ~~guardian advocate can decide whether to give express and~~  
1360 ~~informed consent to the treatment, including information that~~  
1361 ~~the treatment is essential to the care of the patient, and that~~  
1362 ~~the treatment does not present an unreasonable risk of serious,~~  
1363 ~~hazardous, or irreversible side effects.~~ Before giving consent  
1364 to treatment, the guardian advocate shall ~~must~~ meet and talk  
1365 with the individual patient and the individual's patient's  
1366 physician face-to-face in person, if ~~at all~~ possible, and by  
1367 telephone, if not. The guardian advocate shall make every effort  
1368 to make decisions regarding treatment that he or she believes  
1369 the individual would have made under the circumstances if the  
1370 individual were capable of making such decision. The decision of  
1371 the guardian advocate may be reviewed by the court, upon  
1372 petition of the individual's patient's attorney, the  
1373 individual's patient's family, or the facility administrator.



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1374           (4) In lieu of the training required of guardians appointed  
1375 under pursuant to chapter 744, a guardian advocate must, at a  
1376 minimum, complete participate in a 4-hour training course  
1377 approved by the court before exercising his or her authority. At  
1378 a minimum, this training course must include information  
1379 concerning rights of the individual about patient rights,  
1380 psychotropic medications, the diagnosis of mental illness, the  
1381 ethics of medical decisionmaking, and duties of guardian  
1382 advocates.

1383           (5) The required training course and the information  
1384 provided to be supplied to prospective guardian advocates before  
1385 their appointment must be developed by the department and  
1386 approved by the chief judge of the circuit court, and taught by  
1387 a court-approved organization, which may include, but is not  
1388 limited to, a community college, a guardianship organization, a  
1389 local bar association, or The Florida Bar. The training course  
1390 may be web-based, provided in video format, or other electronic  
1391 means but must be capable of ensuring the identity and  
1392 participation of the prospective guardian advocate. The court  
1393 may waive some or all of the training requirements for guardian  
1394 advocates or impose additional requirements. The court shall  
1395 make its decision on a case-by-case basis and, in making its  
1396 decision, shall consider the experience and education of the  
1397 guardian advocate, the duties assigned to the guardian advocate,  
1398 and the needs of the individual subject to involuntary services  
1399 patient.

1400           (6) In selecting a guardian advocate, the court shall give  
1401 preference to a health care surrogate, if one has already been  
1402 designated by the individual held for examination or admitted



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1403 for mental health treatment patient. If the individual patient  
1404 has not previously selected a health care surrogate, except for  
1405 good cause documented in the court record, the selection shall  
1406 be made from the following list in the order of listing:

- 1407 (a) The individual's patient's spouse.  
1408 (b) An adult child of the individual patient.  
1409 (c) A parent of the individual patient.  
1410 (d) The adult next of kin of the individual patient.  
1411 (e) An adult friend of the individual patient.  
1412 (f) An adult trained and willing to serve as guardian  
1413 advocate for the individual patient.

1414 (7) If a guardian having ~~with the~~ authority to consent to  
1415 medical treatment has not already been appointed or if the  
1416 individual held for examination or admitted for mental health  
1417 treatment patient has not already designated a health care  
1418 surrogate, the court may authorize the guardian advocate to  
1419 consent to medical treatment, as well as mental health and  
1420 substance abuse treatment. Unless otherwise limited by the  
1421 court, a guardian advocate who has ~~with~~ authority to consent to  
1422 medical treatment has ~~shall have~~ the same authority to make  
1423 health care decisions and is ~~be~~ subject to the same restrictions  
1424 as a proxy appointed under part IV of chapter 765.

1425 (a) Unless the guardian advocate has sought and received  
1426 express court approval in proceeding separate from the  
1427 proceeding to determine the competence of the individual patient  
1428 to consent to medical treatment, the guardian advocate may not  
1429 consent to:

- 1430 1. ~~(a)~~ Abortion.  
1431 2. ~~(b)~~ Sterilization.



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1432            3.(e) Electroconvulsive treatment.  
1433            4.(d) Psychosurgery.  
1434            5.(e) Experimental treatments that have not been approved  
1435 by a federally approved institutional review board in accordance  
1436 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

1437            (b) The court must base its decision on evidence that the  
1438 treatment or procedure is essential to the care of the patient  
1439 and that the treatment does not present an unreasonable risk of  
1440 serious, hazardous, or irreversible side effects. The court  
1441 shall follow the procedures set forth in subsection (1) of this  
1442 section.

1443            (8) The guardian advocate shall be discharged when the  
1444 individual for whom he or she is appointed ~~patient~~ is discharged  
1445 from an order for involuntary services ~~outpatient placement or~~  
1446 ~~involuntary inpatient placement~~ or when the individual ~~patient~~  
1447 is transferred from involuntary to voluntary status. The court  
1448 ~~or a hearing officer~~ shall consider the competence of the  
1449 individual ~~patient~~ pursuant to subsection (1) and may consider  
1450 the competence to consent to treatment of an individual on  
1451 involuntary status ~~an involuntarily placed patient's competence~~  
1452 ~~to consent to treatment~~ at any hearing. Upon sufficient  
1453 evidence, the court may restore the individual's, ~~or the hearing~~  
1454 ~~officer may recommend that the court restore, the patient's~~  
1455 competence. A copy of the order restoring competence or the  
1456 certificate of discharge containing the restoration of  
1457 competence shall be provided to the individual ~~patient~~ and the  
1458 guardian advocate.

1459            Section 13. Paragraphs (c) and (d) of subsection (2) of  
1460 section 394.4599, Florida Statutes, are amended to read:



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1461 394.4599 Notice.—

1462 (2) INVOLUNTARY ADMISSION.—

1463 (c)1. A receiving facility shall give notice of the  
1464 whereabouts of a minor who is being involuntarily held for  
1465 examination pursuant to s. 394.463 to the minor's parent,  
1466 guardian, caregiver, or guardian advocate, in person or by  
1467 telephone or other form of electronic communication, immediately  
1468 after the minor's arrival at the facility. The facility may  
1469 delay notification for no more than 24 hours after the minor's  
1470 arrival if the facility has submitted a report to the central  
1471 abuse hotline, pursuant to s. 39.201, based upon knowledge or  
1472 suspicion of abuse, abandonment, or neglect and if the facility  
1473 deems a delay in notification to be in the minor's best  
1474 interest.

1475 2. The receiving facility shall attempt to notify the  
1476 minor's parent, guardian, caregiver, or guardian advocate until  
1477 the receiving facility receives confirmation from the parent,  
1478 guardian, caregiver, or guardian advocate, verbally, by  
1479 telephone or other form of electronic communication, or by  
1480 recorded message, that notification has been received. Attempts  
1481 to notify the parent, guardian, caregiver, or guardian advocate  
1482 must be repeated at least once every hour during the first 12  
1483 hours after the minor's arrival and once every 24 hours  
1484 thereafter and must continue until such confirmation is  
1485 received, unless the minor is released at the end of the 72-hour  
1486 examination period, or until a petition for involuntary services  
1487 is filed with the court pursuant to s. 394.463(2)(f)  
1488 ~~394.463(2)(g)~~. The receiving facility may seek assistance from a  
1489 law enforcement agency to notify the minor's parent, guardian,



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1490 caregiver, or guardian advocate if the facility has not received  
1491 within the first 24 hours after the minor's arrival a  
1492 confirmation by the parent, guardian, caregiver, or guardian  
1493 advocate that notification has been received. The receiving  
1494 facility must document notification attempts in the minor's  
1495 clinical record.

1496 (d) The written notice of the filing of the petition for  
1497 involuntary services for an individual being held must contain  
1498 the following:

1499 1. Notice that the petition for:

1500 ~~a. involuntary services inpatient treatment~~ pursuant to s.  
1501 394.467 has been filed with the circuit court in the county in  
1502 which the individual is hospitalized and the address of such  
1503 court; or

1504 b. Involuntary outpatient services pursuant to s. 394.4655  
1505 has been filed with the criminal county court, as defined in s.  
1506 394.4655(1), or the circuit court, as applicable, in the county  
1507 in which the individual is hospitalized and the address of such  
1508 court.

1509 2. Notice that the office of the public defender has been  
1510 appointed to represent the individual in the proceeding, if the  
1511 individual is not otherwise represented by counsel.

1512 3. The date, time, and place of the hearing and the name of  
1513 each examining expert and every other person expected to testify  
1514 in support of continued detention.

1515 4. Notice that the individual, the individual's guardian,  
1516 guardian advocate, health care surrogate or proxy, or  
1517 representative, or the administrator may apply for a change of  
1518 venue for the convenience of the parties or witnesses or because





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1519 of the condition of the individual.

1520 5. Notice that the individual is entitled to an independent  
1521 expert examination and, if the individual cannot afford such an  
1522 examination, that the court will provide for one.

1523 Section 14. Section 394.460, Florida Statutes, is repealed.

1524 Section 15. Section 394.461, Florida Statutes, is amended  
1525 to read:

1526 394.461 Designation of receiving and treatment facilities  
1527 and receiving systems.—The department may ~~is authorized to~~  
1528 designate and monitor receiving facilities, treatment  
1529 facilities, and receiving systems and may suspend or withdraw  
1530 such designation for failure to comply with this part and rules  
1531 adopted under this part. Only governmental facilities and  
1532 facilities ~~Unless~~ designated by the department may, ~~facilities~~  
1533 ~~are not permitted to~~ hold or treat individuals on an involuntary  
1534 basis ~~patients under this part.~~

1535 (1) RECEIVING FACILITY.—The department may designate any  
1536 ~~community facility as a receiving facility. Any other facility~~  
1537 within the state, including a private facility, as a receiving  
1538 facility if ~~or a federal facility, may be so designated by the~~  
1539 ~~department, provided that~~ such designation is agreed to by the  
1540 governing body or authority of the facility.

1541 (2) TREATMENT FACILITY.—The department may designate any  
1542 state-owned, state-operated, or state-supported facility as a  
1543 state treatment facility. An individual may ~~A civil patient~~  
1544 ~~shall~~ not be admitted to a civil state treatment facility  
1545 without previously undergoing a transfer evaluation. Before a  
1546 court hearing for involuntary services ~~placement~~ in a state  
1547 treatment facility, the court shall receive and consider the



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1548 information documented in the transfer evaluation. Any other  
1549 facility, including a private facility or a governmental ~~federal~~  
1550 facility, may be designated as a treatment facility by the  
1551 department, if the ~~provided that such~~ designation is agreed to  
1552 by the appropriate governing body or authority of the facility.

1553 (3) GOVERNMENTAL FACILITIES.—Governmental facilities may  
1554 provide voluntary and involuntary mental health or substance  
1555 abuse examination and treatment for individuals in their care  
1556 and custody using the procedures provided in this part and shall  
1557 protect the rights of these individuals.

1558 (4) ~~(3)~~ PRIVATE FACILITIES.—Private facilities designated as  
1559 receiving and treatment facilities by the department may provide  
1560 examination and treatment of individuals on an involuntary or  
1561 voluntary basis are subject to involuntary patients, ~~as well as~~  
1562 ~~voluntary patients, and are subject to all the provisions of~~  
1563 this part.

1564 (5) ~~(4)~~ REPORTING REQUIREMENTS.—

1565 (a) A facility designated as a public receiving or  
1566 treatment facility under this section shall report to the  
1567 department on an annual basis the following data, unless these  
1568 data are currently being submitted to the Agency for Health Care  
1569 Administration:

- 1570 1. Number of licensed beds.
  - 1571 2. Number of contract days.
  - 1572 3. Number of admissions by payor class and diagnoses.
  - 1573 4. Number of bed days by payor class.
  - 1574 5. Average length of stay by payor class.
  - 1575 6. Total revenues by payor class.
- 1576 (b) For the purposes of this subsection, "payor class"



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1577 means Medicare, Medicare HMO, Medicaid, Medicaid HMO, private-  
1578 pay health insurance, private-pay health maintenance  
1579 organization, private preferred provider organization, the  
1580 Department of Children and Families, other government programs,  
1581 self-pay individuals ~~patients~~, and charity care.

1582 (c) The data required under this subsection shall be  
1583 submitted to the department within no later than 90 days after  
1584 ~~following~~ the end of the facility's fiscal year. A facility  
1585 designated as a public receiving or treatment facility shall  
1586 submit its initial report for the 6-month period ending June 30,  
1587 2008.

1588 (d) The department shall issue an annual report based on  
1589 the data collected ~~required~~ pursuant to this subsection, which  
1590 must include data by facility. ~~The report shall include~~  
1591 ~~individual facilities' data,~~ as well as statewide totals. The  
1592 report shall be submitted to the Governor, the President of the  
1593 Senate, and the Speaker of the House of Representatives.

1594 (6) ~~(5)~~ RECEIVING SYSTEM.—The department shall designate as  
1595 a receiving system one or more facilities serving a defined  
1596 geographic area developed pursuant to s. 394.4573 which is  
1597 responsible for assessment and evaluation, both voluntary and  
1598 involuntary, and treatment, stabilization, or triage for  
1599 patients who have a mental illness, a substance use disorder, or  
1600 co-occurring disorders. Any transportation plans developed  
1601 pursuant to s. 394.462 must support the operation of the  
1602 receiving system.

1603 (7) ~~(6)~~ RULES.—The department may adopt rules relating to:

1604 (a) Procedures and criteria for receiving and evaluating  
1605 ~~facility~~ applications for designation as a receiving or



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1606 treatment facility, which may include an onsite facility  
1607 inspection and evaluation of an applicant's licensing status and  
1608 performance history, as well as consideration of local service  
1609 needs.

1610 (b) Minimum standards consistent with this part which ~~that~~  
1611 a facility must meet and maintain in order to be designated as a  
1612 receiving or treatment facility and procedures for monitoring  
1613 continued adherence to such standards.

1614 (c) Procedures and criteria for designating receiving  
1615 systems which may include consideration of the adequacy of  
1616 services provided by facilities within the receiving system to  
1617 meet the needs of the geographic area using available resources.

1618 (d) Procedures for receiving complaints against a  
1619 designated facility or designated receiving system and for  
1620 initiating inspections and investigations of facilities or  
1621 receiving systems alleged to have violated the provisions of  
1622 this part or rules adopted under this part.

1623 (e) Procedures and criteria for the suspension or  
1624 withdrawal of designation as a receiving or treatment facility  
1625 or receiving system.

1626 Section 16. Section 394.4615, Florida Statutes, is amended  
1627 to read:

1628 394.4615 Clinical records; confidentiality.-

1629 (1) A clinical record shall be maintained for each  
1630 individual held for examination or admitted for treatment under  
1631 this part ~~patient~~. The record must ~~shall~~ include data pertaining  
1632 to admission and such other information as may be required under  
1633 rules of the department. A clinical record is confidential and  
1634 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by the



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1635 express and informed consent of the individual, his or her, ~~by~~  
1636 ~~the patient or the patient's~~ guardian or guardian advocate, his  
1637 or her health care surrogate or proxy, or, if ~~the patient is~~  
1638 deceased, by his or her ~~the patient's~~ personal representative or  
1639 the family member who stands next in line of intestate  
1640 succession, the confidential status of the clinical record is  
1641 ~~shall not be~~ lost by ~~either~~ authorized or unauthorized  
1642 disclosure to any person, organization, or agency.

1643 (2) The clinical record of an individual held for  
1644 examination or admitted for treatment under this part shall be  
1645 released if when:

1646 (a) The individual ~~patient~~ or the individual's ~~patient's~~  
1647 guardian, guardian advocate, or health care surrogate or proxy  
1648 authorizes the release. The guardian, ~~or~~ guardian advocate, or  
1649 health care surrogate or proxy, shall be provided access to the  
1650 appropriate clinical records ~~of the patient.~~ The individual  
1651 ~~patient~~ or the individual's ~~patient's~~ guardian, ~~or~~ guardian  
1652 advocate, health care surrogate or proxy may authorize the  
1653 release of information and clinical records to appropriate  
1654 persons to ensure the continuity of the individual's ~~patient's~~  
1655 health ~~care~~ or mental health care.

1656 (b) The individual ~~patient~~ is represented by counsel and  
1657 the records are needed by such ~~the patient's~~ counsel for  
1658 adequate representation.

1659 (c) The court orders such release. In determining whether  
1660 there is good cause for disclosure, the court shall weigh the  
1661 need for the information to be disclosed against the possible  
1662 harm of disclosure to the individual ~~person~~ to whom such  
1663 information pertains.



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1664 (d) The individual patient is committed to, or ~~is to be~~  
1665 returned to, the Department of Corrections ~~from the Department~~  
1666 ~~of Children and Families,~~ and the Department of Corrections  
1667 requests the ~~such~~ records. The ~~These~~ records shall be furnished  
1668 without charge to the Department of Corrections.

1669 (3) Information from the clinical record may be released if  
1670 ~~in the following circumstances:~~

1671 (a) The individual ~~When a patient~~ has declared an intention  
1672 to harm self or others ~~other persons~~. If the ~~When such~~  
1673 declaration has been made, the administrator may authorize the  
1674 release of sufficient information to prevent harm ~~provide~~  
1675 ~~adequate warning to the person threatened with harm by the~~  
1676 ~~patient.~~

1677 (b) ~~When~~ The administrator of the facility or secretary of  
1678 the department deems that release to a qualified researcher as  
1679 defined in administrative rule, an aftercare treatment provider,  
1680 or an employee or agent of the department is necessary for  
1681 treatment of the individual patient, maintenance of adequate  
1682 records, compilation of treatment data, aftercare planning, or  
1683 evaluation of programs.

1684 (c) The information is necessary for ~~the purpose of~~  
1685 determining whether an individual ~~a person~~ meets the criteria  
1686 for involuntary services. In such circumstances ~~outpatient~~  
1687 ~~placement or for preparing the proposed treatment plan pursuant~~  
1688 ~~to s. 394.4655,~~ the clinical record may be released to the state  
1689 attorney, the public defender or the individual's ~~patient's~~  
1690 private legal counsel, the court, and to the appropriate mental  
1691 health professionals, ~~including the service provider identified~~  
1692 ~~in s. 394.4655(7)(b)2., in accordance with state and federal~~



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1693 ~~law.~~

1694 (4) Information from clinical records may be used for  
1695 statistical and research purposes if the information is  
1696 abstracted in such a way as to protect the identity of  
1697 individuals served and meets the requirements of department  
1698 rules.

1699 (5) Information from clinical records may be used by the  
1700 Agency for Health Care Administration and the department, ~~and~~  
1701 ~~the Florida advocacy councils~~ for the purpose of monitoring  
1702 facility activity and investigating complaints concerning  
1703 facilities.

1704 (6) Clinical records relating to a Medicaid recipient shall  
1705 be furnished to the Medicaid Fraud Control Unit in the  
1706 Department of Legal Affairs, upon request.

1707 (7) Any person, agency, or entity receiving information  
1708 pursuant to this section shall maintain such information as  
1709 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

1710 (8) Any facility or private mental health practitioner who  
1711 acts in good faith in releasing information pursuant to this  
1712 section is not subject to civil or criminal liability for such  
1713 release.

1714 (9) ~~Nothing in~~ This section does not ~~is intended to~~  
1715 prohibit the parent or next of kin of an individual who is held  
1716 for examination or admitted for treatment under this part ~~a~~  
1717 ~~person who is held in or treated under a mental health facility~~  
1718 ~~or program~~ from requesting and receiving information limited to  
1719 a summary of that individual's ~~person's~~ treatment plan and  
1720 current physical and mental condition. Release of such  
1721 information must ~~shall~~ be in accordance with the code of ethics



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1722 of the profession involved.

1723       (10) An individual held for examination or admitted for  
1724 treatment ~~Patients~~ shall have reasonable access to his or her  
1725 ~~their~~ clinical records, unless such access is determined by the  
1726 individual's ~~patient's~~ physician to be harmful to the individual  
1727 ~~patient~~. If the individual's ~~patient's~~ right to inspect his or  
1728 her clinical record is restricted by the facility, written  
1729 notice of the ~~such~~ restriction must ~~shall~~ be given to the  
1730 individual and his or her ~~patient and the patient's~~ guardian,  
1731 guardian advocate, attorney, health care surrogate or proxy, or  
1732 ~~and~~ representative. In addition, the restriction must ~~shall~~ be  
1733 recorded in the clinical record, together with the reasons for  
1734 it. The restriction expires ~~of a patient's right to inspect his~~  
1735 ~~or her clinical record shall expire~~ after 7 days but may be  
1736 renewed, after review, for subsequent 7-day periods.

1737       (11) Any person who fraudulently alters, defaces, or  
1738 falsifies the clinical record of an individual ~~any person~~  
1739 receiving ~~mental health~~ services in a facility subject to this  
1740 part, or causes or procures any of these offenses to be  
1741 committed, commits a misdemeanor of the second degree,  
1742 punishable as provided in s. 775.082 or s. 775.083.

1743       Section 17. Section 394.462, Florida Statutes, is amended  
1744 to read:

1745       394.462 Transportation.—A transportation plan shall be  
1746 developed and implemented by each county by July 1, 2017, in  
1747 collaboration with the managing entity in accordance with this  
1748 section. A county may enter into a memorandum of understanding  
1749 with the governing boards of nearby counties to establish a  
1750 shared transportation plan. When multiple counties enter into a





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1751 memorandum of understanding for this purpose, the counties shall  
1752 notify the managing entity and provide it with a copy of the  
1753 agreement. The transportation plan shall describe methods of  
1754 transport to a facility within the designated receiving system  
1755 for individuals subject to involuntary examination under s.  
1756 394.463 or involuntary admission under s. 397.6772, s. 397.679,  
1757 s. 397.6798, or s. 397.6811, and may identify responsibility for  
1758 other transportation to a participating facility when necessary  
1759 and agreed to by the facility. The plan may rely on emergency  
1760 medical transport services or private transport companies, as  
1761 appropriate. The plan shall comply with the transportation  
1762 provisions of this section and ss. 397.6772, 397.6795, 397.6822,  
1763 and 397.697.

1764 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

1765 (a) Each county shall designate a single law enforcement  
1766 agency within the county, or portions thereof, to take an  
1767 individual ~~a person~~ into custody upon the entry of an ex parte  
1768 order or the execution of a certificate for involuntary  
1769 examination by an authorized qualified professional and to  
1770 transport that person to the appropriate facility, excluding a  
1771 governmental facility, within the designated receiving system  
1772 pursuant to a transportation plan or an exception under  
1773 subsection (4), or to the nearest receiving facility if neither  
1774 apply. However, if the law enforcement officer providing  
1775 transportation believes that the individual is eligible for  
1776 services provided by the United States Department of Veterans  
1777 Affairs, the officer may transport the individual to a facility  
1778 operated by the United States Department of Veterans Affairs.

1779 (b) A law enforcement officer acting in good faith pursuant



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1780 to this part may not be held criminally or civilly liable for  
1781 false imprisonment.

1782 (c) ~~(b)~~1. The designated law enforcement agency may decline  
1783 to transport the individual ~~person~~ to a receiving facility only  
1784 if:

1785 1.a. The county or jurisdiction designated by the county  
1786 has contracted ~~on an annual basis~~ with an emergency medical  
1787 transport service or private transport company for  
1788 transportation of individuals ~~persons~~ to receiving facilities.  
1789 ~~pursuant to this section at the sole cost of the county; and~~

1790 2.b. The law enforcement agency and the emergency medical  
1791 transport service or private transport company agree that the  
1792 continued presence of law enforcement personnel is not necessary  
1793 for the safety of the individual being transported ~~person~~ or  
1794 others.

1795 3.2. The entity providing transportation may seek  
1796 reimbursement for transportation expenses. The party responsible  
1797 for payment for such transportation is the person receiving the  
1798 transportation. The county shall seek reimbursement from the  
1799 following sources in the following order:

1800 a. From a private or public third-party payor, if the  
1801 individual being transported ~~person receiving the transportation~~  
1802 has applicable coverage.

1803 b. From the individual being transported ~~person receiving~~  
1804 ~~the transportation.~~

1805 c. From a financial settlement for medical care, treatment,  
1806 hospitalization, or transportation payable or accruing to the  
1807 injured party.

1808 (d) ~~(e)~~ A company that transports an individual ~~a patient~~



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1809 pursuant to this subsection is considered an independent  
1810 contractor and is solely liable for the safe and dignified  
1811 transport of the individual patient. ~~The Such~~ company must be  
1812 insured and maintain at least ~~provide no less than~~ \$100,000 in  
1813 liability insurance with respect to such ~~the~~ transport ~~of~~  
1814 ~~patients~~.

1815 (d) Any company that contracts with a governing board of a  
1816 county to transport patients shall comply with the applicable  
1817 rules of the department to ensure the safety and dignity of  
1818 patients.

1819 (e) ~~If When~~ a law enforcement officer takes custody of an  
1820 individual ~~a person~~ pursuant to this part, the officer may  
1821 request assistance from emergency medical personnel if the ~~such~~  
1822 assistance is needed for the safety of the officer or the  
1823 individual ~~person~~ in custody.

1824 (f) ~~If When~~ a member of a mental health overlay program or  
1825 a mobile crisis response service who is a professional  
1826 authorized to initiate an involuntary examination pursuant to s.  
1827 394.463 or s. 397.675 ~~and that professional~~ evaluates an  
1828 individual ~~a person~~ and determines that transportation to a  
1829 receiving facility is needed, the service, ~~at its discretion,~~  
1830 may transport the individual ~~person~~ to the facility or may call  
1831 on the law enforcement agency or other transportation  
1832 arrangement best suited to the needs of the individual being  
1833 transported ~~patient~~.

1834 (g) ~~If a When any~~ law enforcement officer has custody of an  
1835 individual ~~a person~~ based on a misdemeanor or a felony, other  
1836 than a forcible felony as defined in s. 776.08, who either  
1837 ~~noncriminal or minor criminal behavior that~~ meets the statutory



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1838 guidelines for involuntary examination pursuant to s. 394.463,  
1839 the law enforcement officer shall transport the individual  
1840 ~~person~~ to the appropriate facility within the designated  
1841 receiving system pursuant to a transportation plan or an  
1842 exception under subsection (4), or to the nearest receiving  
1843 facility if neither apply. Individuals ~~Persons~~ who meet the  
1844 statutory guidelines for involuntary admission pursuant to s.  
1845 397.675 may also be transported by law enforcement officers to  
1846 the extent resources are available and as otherwise provided by  
1847 law. Such persons shall be transported to an appropriate  
1848 facility within the designated receiving system pursuant to a  
1849 transportation plan or an exception under subsection (4), or to  
1850 the nearest facility if neither apply.

1851 (h) If a ~~When any~~ law enforcement officer has arrested an  
1852 individual ~~a person~~ for a forcible felony, as defined in s.  
1853 776.08, and it appears that the individual ~~person~~ meets the  
1854 criteria ~~statutory guidelines~~ for involuntary examination ~~or~~  
1855 ~~placement~~ under this part, the individual ~~such person~~ must first  
1856 be processed in the same manner as any other criminal suspect.  
1857 The law enforcement agency shall thereafter immediately notify  
1858 the appropriate facility within the designated receiving system  
1859 pursuant to a transportation plan or an exception under  
1860 subsection (4), or to the nearest receiving facility if neither  
1861 apply. The receiving facility shall be responsible for promptly  
1862 arranging for the examination and treatment of the individual  
1863 ~~person~~. A receiving facility is not required to admit an  
1864 individual ~~a person~~ charged with a crime for whom the facility  
1865 determines and documents that it is unable to provide adequate  
1866 security, but shall provide examination and treatment to the



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1867 individual ~~person~~ where he or she is held.

1868 (i) If the appropriate law enforcement officer believes  
1869 that an individual ~~a person~~ has an emergency medical condition  
1870 as defined in s. 395.002, the individual ~~person~~ may be first  
1871 transported to a hospital for emergency medical treatment,  
1872 regardless of whether the hospital is a designated receiving  
1873 facility.

1874 (j) The costs of transportation, evaluation,  
1875 hospitalization, and treatment incurred under this subsection by  
1876 an individual who was ~~persons who have been~~ arrested for a  
1877 violation ~~violations~~ of any state law or county or municipal  
1878 ordinance may be recovered as provided in s. 901.35.

1879 (k) The appropriate facility within the designated  
1880 receiving system pursuant to a transportation plan or an  
1881 exception under subsection (4), or the nearest receiving  
1882 facility if neither apply, must accept an individual ~~persons~~  
1883 brought by law enforcement officers, or an emergency medical  
1884 transport service or a private transport company authorized by  
1885 the county, for involuntary examination pursuant to s. 394.463.  
1886 The original of the form initiating the involuntary examination  
1887 is not required for a receiving facility to accept such an  
1888 individual or for transfers from one facility to another.

1889 (l) The appropriate facility within the designated  
1890 receiving system pursuant to a transportation plan or an  
1891 exception under subsection (4), or the nearest receiving  
1892 facility if neither apply, must provide persons brought by law  
1893 enforcement officers, or an emergency medical transport service  
1894 or a private transport company authorized by the county,  
1895 pursuant to s. 397.675, a basic screening or triage sufficient



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1896 to refer the person to the appropriate services.

1897 (m) Each law enforcement agency designated pursuant to  
1898 paragraph (a) shall establish a policy that reflects a single  
1899 set of protocols for the safe and secure transportation and  
1900 transfer of custody of the individual ~~person~~. Each law  
1901 enforcement agency shall provide a copy of the protocols to the  
1902 managing entity.

1903 (n) ~~If~~ ~~When~~ a jurisdiction has entered into a contract with  
1904 an emergency medical transport service or a private transport  
1905 company for transportation of individuals ~~persons~~ to facilities  
1906 within the designated receiving system, such service or company  
1907 shall be given preference for transportation of individuals  
1908 ~~persons~~ from nursing homes, assisted living facilities, adult  
1909 day care centers, or adult family-care homes, unless the  
1910 behavior of the individual ~~person~~ being transported is such that  
1911 transportation by a law enforcement officer is necessary.

1912 (o) This section does not ~~may not be construed to~~ limit  
1913 emergency examination and treatment of incapacitated persons  
1914 provided in accordance with s. 401.445.

1915 (p) A law enforcement officer may transport an individual  
1916 who appears to meet the criteria for voluntary admission under  
1917 s. 394.4625(1)(a) to a receiving facility at the individual's  
1918 request.

1919 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

1920 (a) If the individual held for examination or admitted for  
1921 treatment under this part or neither the patient nor any person  
1922 legally obligated or responsible for the individual ~~patient~~ is  
1923 not able to pay for the expense of transporting an individual ~~a~~  
1924 ~~voluntary or involuntary patient~~ to a treatment facility, the



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1925 transportation plan established by the governing board of the  
1926 county or counties must specify how the hospitalized patient  
1927 will be transported to, from, and between facilities in a safe  
1928 and dignified manner.

1929 (b) A company that transports an individual ~~a patient~~  
1930 pursuant to this subsection is considered an independent  
1931 contractor and is solely liable for the safe and dignified  
1932 transportation of the individual ~~patient~~. ~~The~~ ~~Such~~ company must  
1933 be insured and provide at least ~~no less than~~ \$100,000 in  
1934 liability insurance for such ~~with respect to the transport of~~  
1935 ~~patients~~.

1936 (c) A company that contracts with one or more counties to  
1937 transport patients in accordance with this section shall comply  
1938 with the applicable rules of the department to ensure the safety  
1939 and dignity of patients.

1940 (d) County or municipal law enforcement and correctional  
1941 personnel and equipment may not be used to transport an  
1942 individual ~~patients~~ adjudicated incapacitated or found by the  
1943 court to meet the criteria for involuntary services under  
1944 ~~placement pursuant to~~ s. 394.467, except in small rural counties  
1945 where there are no cost-efficient alternatives.

1946 (3) TRANSFER OF CUSTODY.—Custody of an individual ~~a person~~  
1947 who is transported pursuant to this part and, ~~along with~~ related  
1948 documentation, shall be relinquished to a responsible person  
1949 ~~individual~~ at the appropriate receiving or treatment facility.

1950 (4) EXCEPTIONS.—An exception to the requirements of this  
1951 section may be granted by the secretary ~~of the department~~ for  
1952 the purposes of improving service coordination or better meeting  
1953 the special needs of individuals. A proposal for an exception



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1954 shall ~~must~~ be submitted to the department after being approved  
1955 by the governing boards of any affected counties.

1956 (a) A proposal for an exception must identify the specific  
1957 provision from which an exception is requested; describe how the  
1958 proposal will be implemented by participating law enforcement  
1959 agencies and transportation authorities; and provide a plan for  
1960 the coordination of services.

1961 (b) An ~~The~~ exception may be granted only for:

1962 1. An arrangement centralizing and improving the provision  
1963 of services within a county, circuit, or local area ~~district~~,  
1964 which may include an exception to the requirement for  
1965 transportation to the nearest receiving facility;

1966 2. An arrangement whereby ~~by which~~ a facility may provide,  
1967 in addition to required psychiatric or substance use disorder  
1968 services, an environment and services that ~~which~~ are uniquely  
1969 tailored to the needs of an identified group of individuals who  
1970 have ~~persons with~~ special needs, such as persons who have ~~with~~  
1971 hearing impairments or visual impairments, or elderly persons  
1972 who have ~~with~~ physical frailties; or

1973 3. A specialized transportation system that provides an  
1974 efficient and humane method of transporting individuals ~~patients~~  
1975 to and among receiving facilities, ~~among receiving facilities,~~  
1976 and to treatment facilities.

1977  
1978 The exceptions provided in this subsection shall expire on June  
1979 30, 2017, and no new exceptions shall be granted after that  
1980 date. After June 30, 2017, the transport of a patient to a  
1981 facility that is not the nearest facility must be made pursuant  
1982 to a plan as provided in this section.





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1983 Section 18. Section 394.4625, Florida Statutes, is amended  
1984 to read:

1985 394.4625 Voluntary admissions.—

1986 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE  
1987 PATIENTS.—

1988 (a) In order to be admitted to a facility on a voluntary  
1989 basis:

1990 1. An individual must show evidence of mental illness.

1991 2. An individual must be suitable for treatment by the  
1992 facility.

1993 3. An adult must provide express and informed consent, and  
1994 must be competent to do so.

1995 4. A minor may only be admitted on the basis of the express  
1996 and informed consent of the minor's guardian in conjunction with  
1997 the assent of the minor.

1998 a. The assent of the minor is an affirmative agreement by  
1999 the minor to remain at the facility for examination or  
2000 treatment. Mere failure to object is not assent.

2001 b. The minor's assent must be verified through a clinical  
2002 assessment that is documented in the clinical record and  
2003 conducted within 12 hours after arrival at the facility by a  
2004 licensed professional authorized to initiate an involuntary  
2005 examination pursuant to s. 394.463.

2006 c. In verifying the minor's assent, the examining  
2007 professional must first provide the minor with an explanation as  
2008 to why the minor will be examined and treated, what the minor  
2009 can expect while in the facility, and when the minor may expect  
2010 to be released, using language that is appropriate to the  
2011 minor's age, experience, maturity, and condition. The examining



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2012 professional must determine and document that the minor is able  
2013 to understand this information.

2014 d. Unless the minor's assent is verified pursuant to this  
2015 section, a petition for involuntary services must be filed with  
2016 the court or the minor must be released to his or her guardian  
2017 within 24 hours after arrival ~~A facility may receive for~~  
2018 ~~observation, diagnosis, or treatment any person 18 years of age~~  
2019 ~~or older making application by express and informed consent for~~  
2020 ~~admission or any person age 17 or under for whom such~~  
2021 ~~application is made by his or her guardian. If found to show~~  
2022 ~~evidence of mental illness, to be competent to provide express~~  
2023 ~~and informed consent, and to be suitable for treatment, such~~  
2024 ~~person 18 years of age or older may be admitted to the facility.~~  
2025 ~~A person age 17 or under may be admitted only after a hearing to~~  
2026 ~~verify the voluntariness of the consent.~~

2027 (b) A mental health overlay program or a mobile crisis  
2028 response service or a licensed professional who is authorized to  
2029 initiate an involuntary examination pursuant to s. 394.463 and  
2030 is employed by a community mental health center or clinic shall  
2031 ~~must, pursuant to district procedure approved by the respective~~  
2032 ~~district administrator,~~ conduct an initial assessment of the  
2033 ability of the following individuals ~~persons~~ to give express and  
2034 informed consent to treatment before such individuals ~~persons~~  
2035 may be admitted voluntarily:

2036 1. An individual ~~A person~~ 60 years of age or older for whom  
2037 transfer is being sought from a nursing home, assisted living  
2038 facility, adult day care center, or adult family-care home, if  
2039 the individual ~~when such person~~ has been diagnosed with ~~as~~  
2040 ~~suffering from~~ dementia.



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2041           2. An individual ~~A person~~ 60 years of age or older for whom  
2042 transfer is being sought from a nursing home pursuant to s.  
2043 400.0255(11) ~~400.0255(12)~~.

2044           3. An individual who resides in a facility licensed under  
2045 chapter 400 or chapter 429 ~~A person~~ for whom all decisions  
2046 concerning medical treatment are currently being lawfully made  
2047 by a ~~the~~ health care surrogate or proxy designated under chapter  
2048 765.

2049           (c) If ~~When~~ an initial assessment of the ability of an  
2050 individual ~~a person~~ to give express and informed consent to  
2051 treatment is required under this part ~~section~~, and a mobile  
2052 crisis response service does not respond to the request for an  
2053 assessment within 2 hours after the request is made or informs  
2054 the requesting facility that it will not be able to respond  
2055 within 2 hours after the request is made, the requesting  
2056 facility may arrange for assessment by a ~~any~~ licensed  
2057 professional authorized to initiate an involuntary examination  
2058 under ~~pursuant to~~ s. 394.463. The professional may not be ~~who is~~  
2059 ~~not~~ employed by, or ~~or~~ under contract with, or ~~and does not~~ have a  
2060 financial interest in, ~~either~~ the facility initiating the  
2061 transfer or the ~~receiving~~ facility to which the transfer may be  
2062 made and may not have a financial interest in the outcome of the  
2063 assessment.

2064           (d) A facility may not admit an individual on voluntary  
2065 status or transfer an individual to voluntary status ~~as a~~  
2066 ~~voluntary patient a person~~ who has been adjudicated  
2067 incapacitated, unless the condition of incapacity has been  
2068 judicially removed, except when a court authorized a legal  
2069 guardian in adherence to s. 744.3725. If a facility admits an



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2070 individual on voluntary status who is later determined to have  
2071 been adjudicated incapacitated, the facility shall discharge the  
2072 individual or transfer the individual to involuntary status  
2073 unless there is a court order pursuant to s. 744.3725 as a  
2074 voluntary patient a person who is later determined to have been  
2075 adjudicated incapacitated, and the condition of incapacity had  
2076 not been removed by the time of the admission, the facility must  
2077 either discharge the patient or transfer the patient to  
2078 involuntary status.

2079 (e) The health care surrogate or proxy of an individual on  
2080 voluntary status ~~a voluntary patient~~ may not consent to the  
2081 provision of mental health treatment for that individual the  
2082 patient. An individual on voluntary status ~~A voluntary patient~~  
2083 who is unwilling or unable to provide express and informed  
2084 consent to mental health treatment must ~~either~~ be discharged or  
2085 transferred to involuntary status.

2086 (f) Within 24 hours after an individual's voluntary  
2087 admission, a physician or psychologist ~~admission of a voluntary~~  
2088 ~~patient, the admitting physician~~ shall document in the ~~patient's~~  
2089 clinical record whether the individual ~~that the patient~~ is able  
2090 to give express and informed consent for admission. If the  
2091 individual ~~patient~~ is not able to give express and informed  
2092 consent for admission, the facility must ~~shall either~~ discharge  
2093 ~~the patient~~ or transfer the individual ~~patient~~ to involuntary  
2094 status pursuant to subsection (5).

2095 (2) RELEASE OR DISCHARGE OF VOLUNTARY PATIENTS.-

2096 (a) A facility shall discharge an individual on voluntary  
2097 status who ~~a voluntary patient~~:

2098 1. ~~Who~~ Has sufficiently improved so that retention in the



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2099 facility is no longer clinically appropriate ~~desirable~~. The  
2100 individual ~~A patient~~ may ~~also~~ be discharged to the care of a  
2101 community facility.

2102 2. Has revoked ~~Who revokes~~ consent to admission or requests  
2103 discharge. The individual or his or her ~~A voluntary patient or a~~  
2104 relative, friend, or attorney ~~of the patient~~ may request  
2105 discharge either orally or in writing at any time following  
2106 admission to the facility. The patient must be discharged within  
2107 24 hours after ~~of~~ the request, unless the request is rescinded  
2108 or the individual ~~patient~~ is transferred to involuntary status  
2109 pursuant to this section. The 24-hour time period may be  
2110 extended by a treatment facility if ~~when~~ necessary for adequate  
2111 discharge planning, but may ~~shall~~ not exceed 3 days excluding  
2112 ~~exclusive of~~ weekends and holidays. If the individual ~~patient~~,  
2113 or another on the individual's ~~patient's~~ behalf, makes an oral  
2114 request for discharge to a staff member, the ~~such~~ request must  
2115 ~~shall~~ be immediately entered in the ~~patient's~~ clinical record.  
2116 If the request for discharge is made by a person other than the  
2117 individual ~~patient~~, the discharge may be conditioned upon the  
2118 individual's express and informed consent ~~of the patient~~.

2119 (b) An individual on voluntary status ~~A voluntary patient~~  
2120 who has been admitted to a facility and who refuses to consent  
2121 to or revokes consent to treatment must ~~shall~~ be discharged  
2122 within 24 hours after such refusal or revocation, unless he or  
2123 she is transferred to involuntary status pursuant to this  
2124 section or unless the refusal or revocation is freely and  
2125 voluntarily rescinded by the individual ~~patient~~.

2126 (c) An individual on voluntary status who is currently  
2127 charged with a crime shall be discharged to the custody of a law



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2128 enforcement officer upon release or discharge from a facility,  
2129 unless the individual has been released from law enforcement  
2130 custody by posting of a bond, by a pretrial conditional release,  
2131 or by other judicial release.

2132 (3) NOTICE OF RIGHT TO DISCHARGE.—At the time of admission  
2133 and at least every 6 months thereafter, an individual on  
2134 voluntary status ~~a voluntary patient~~ shall be notified in  
2135 writing of his or her right to apply for a discharge.

2136 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient  
2137 who applies to be transferred to voluntary status shall be  
2138 transferred to voluntary status immediately, unless the  
2139 individual has been ordered to involuntary services ~~patient has~~  
2140 ~~been charged with a crime, or has been involuntarily placed for~~  
2141 ~~treatment~~ by a court pursuant to s. 394.467 and continues to  
2142 meet the criteria for involuntary placement. When transfer to  
2143 voluntary status occurs, notice shall be given as provided in s.  
2144 394.4599.

2145 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on  
2146 voluntary status ~~When a voluntary patient,~~ or an authorized  
2147 person on the individual's ~~patient's~~ behalf, makes a request for  
2148 discharge, the request for discharge, unless freely and  
2149 voluntarily rescinded, must be communicated to a physician,  
2150 ~~elinical~~ psychologist, or psychiatrist as quickly as possible,  
2151 but within not later than 12 hours after the request is made. If  
2152 the individual ~~patient~~ meets the criteria for involuntary  
2153 services, the individual must be transferred to a designated  
2154 receiving facility or governmental facility and the  
2155 administrator of the receiving or governmental facility where  
2156 the individual is held ~~placement, the administrator of the~~



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2157 ~~facility~~ must file with the court a petition for involuntary  
2158 services placement, within 2 court working days after the  
2159 request ~~for discharge~~ is made. If the petition is not filed  
2160 within 2 court working days, the individual must ~~patient shall~~  
2161 be discharged. Pending the filing of the petition, the  
2162 individual patient may be held and emergency mental health  
2163 treatment rendered in the least restrictive manner, upon the  
2164 written order of a physician, if it is determined that such  
2165 treatment is necessary for the safety of the individual patient  
2166 or others.

2167 Section 19. Section 394.463, Florida Statutes, is amended  
2168 to read:

2169 394.463 Involuntary examination.-

2170 (1) CRITERIA.-An individual may be subject to ~~A person may~~  
2171 ~~be taken to a receiving facility for~~ involuntary examination if  
2172 there is reason to believe that he or she ~~the person~~ has a  
2173 mental illness and because of this ~~his or her~~ mental illness:

2174 (a)1. The individual person has refused voluntary  
2175 examination after conscientious explanation and disclosure of  
2176 the purpose of the examination; or

2177 2. The individual person is unable to determine for himself  
2178 or herself whether examination is necessary; and

2179 (b)~~1.~~ Without care or treatment:7

2180 1. The individual person is likely to suffer from neglect  
2181 or refuse to care for himself or herself; such neglect or  
2182 refusal poses a real and present threat of substantial harm to  
2183 his or her well-being; and it is not apparent that the ~~such~~ harm  
2184 may be avoided through the help of willing family members or  
2185 friends or the provision of other services; or



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2186           2. There is a substantial likelihood that individual  
2187 without care or treatment the person will cause serious bodily  
2188 harm to self ~~himself or herself~~ or others in the near future, as  
2189 evidenced by recent behavior.

2190           (2) INVOLUNTARY EXAMINATION.—

2191           (a) An involuntary examination may be initiated by any one  
2192 of the following means:

2193           1. A circuit or county court may enter an ex parte order  
2194 stating that an individual ~~a person~~ appears to meet the criteria  
2195 for involuntary examination and specifying the findings on which  
2196 that conclusion is based. The ex parte order for involuntary  
2197 examination must be based on written or oral sworn testimony  
2198 that includes specific facts that support the findings. If other  
2199 less restrictive means are not available, such as voluntary  
2200 appearance for outpatient evaluation, a law enforcement officer,  
2201 or other designated agent of the court, shall take the  
2202 individual ~~person~~ into custody and deliver him or her to an  
2203 appropriate, or the nearest, facility within the designated  
2204 receiving system pursuant to s. 394.462 for involuntary  
2205 examination. The ~~order of the court~~ order must ~~shall~~ be made a  
2206 part of the ~~patient's~~ clinical record. A fee may not be charged  
2207 for the filing of a petition ~~an order~~ under this subsection. A  
2208 facility accepting the individual ~~patient~~ based on the ~~this~~  
2209 order must send a copy of the order to the department the next  
2210 working day. The order may be submitted electronically through  
2211 existing data systems, if available. The order is ~~shall be~~ valid  
2212 only until the individual ~~person~~ is delivered to the facility or  
2213 for the period specified in the order itself, whichever comes  
2214 first. If a ~~no~~ time limit is not specified in the order, the





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2215 order is ~~shall be~~ valid for 7 days after the date it ~~that the~~  
2216 ~~order~~ was signed.

2217 2. A law enforcement officer shall take an individual a  
2218 ~~person~~ who appears to meet the criteria for involuntary  
2219 examination into custody and deliver or arrange for the delivery  
2220 of the individual ~~the person or have him or her delivered~~ to an  
2221 appropriate, or the nearest, facility within the designated  
2222 receiving system pursuant to s. 394.462 for examination. The  
2223 officer shall complete ~~execute~~ a written report detailing the  
2224 circumstances under which the individual ~~person~~ was taken into  
2225 custody, which must be made a part of the ~~patient's~~ clinical  
2226 record. A ~~Any~~ facility accepting the individual ~~patient~~ based on  
2227 this report must send a copy of the report to the department the  
2228 next working day.

2229 3. A physician, ~~clinical~~ psychologist, psychiatric nurse,  
2230 mental health counselor, marriage and family therapist, ~~or~~  
2231 clinical social worker, advanced registered nurse practitioner,  
2232 or physician assistant may execute a certificate stating that he  
2233 or she has examined the individual ~~a person~~ within the preceding  
2234 48 hours and finds that the individual ~~person~~ appears to meet  
2235 the criteria for involuntary examination and stating his or her  
2236 ~~the~~ observations upon which that conclusion is based. If other  
2237 less restrictive means, such as voluntary appearance for  
2238 outpatient evaluation, are not available, a law enforcement  
2239 officer shall take into custody the individual ~~person~~ named in  
2240 the certificate and deliver him or her to the appropriate, or  
2241 nearest, facility within the designated receiving system  
2242 pursuant to s. 394.462 for involuntary examination. A law  
2243 enforcement officer may only take an individual into custody on



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2244 the basis of a certificate within 7 calendar days after the  
2245 certificate is signed. The law enforcement officer shall execute  
2246 a written report detailing the circumstances under which the  
2247 individual ~~person~~ was taken into custody. The report and  
2248 certificate shall be made a part of the ~~patient's~~ clinical  
2249 record. A ~~Any~~ facility accepting the individual ~~patient~~ based on  
2250 the ~~this~~ certificate must send a copy of the certificate to the  
2251 department the next working day. The document may be submitted  
2252 electronically through existing data systems, if applicable.

2253 (b) A law enforcement officer who initiates an involuntary  
2254 examination of an individual pursuant to subparagraph (a)2., or  
2255 a professional who initiates an involuntary examination of an  
2256 individual pursuant to subparagraph (a)3., may notify the  
2257 individual's guardian, representative, or health care surrogate  
2258 or proxy of such examination. A receiving facility accepting an  
2259 individual for involuntary examination shall make and document  
2260 immediate attempts to notify the individual's guardian,  
2261 representative, or health care surrogate or proxy upon the  
2262 individual's arrival.

2263 (c) ~~(b)~~ An individual ~~A person~~ may not be removed from any  
2264 program or residential services ~~placement~~ licensed under chapter  
2265 400 or chapter 429 and transported to a receiving facility for  
2266 involuntary examination unless an ex parte order, a professional  
2267 certificate, or a law enforcement officer's report is first  
2268 prepared. If the condition of the individual ~~person~~ is such that  
2269 preparation of a law enforcement officer's report is not  
2270 practicable before removal, the report must ~~shall~~ be completed  
2271 as soon as possible after removal, but ~~in any case~~ before the  
2272 individual ~~person~~ is transported to a receiving facility. A



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2273 facility admitting an individual ~~a person~~ for involuntary  
2274 examination who is not accompanied by the required ex parte  
2275 order, professional certificate, or law enforcement officer's  
2276 report must ~~shall~~ notify the department of the ~~such~~ admission by  
2277 certified mail or by e-mail, if available, by the next working  
2278 day. The provisions of this paragraph do not apply when  
2279 transportation is provided by the patient's family or guardian.

2280 ~~(c) A law enforcement officer acting in accordance with an~~  
2281 ~~ex parte order issued pursuant to this subsection may serve and~~  
2282 ~~execute such order on any day of the week, at any time of the~~  
2283 ~~day or night.~~

2284 ~~(d) A law enforcement officer acting in accordance with an~~  
2285 ~~ex parte order issued pursuant to this subsection may use such~~  
2286 ~~reasonable physical force as is necessary to gain entry to the~~  
2287 ~~premises, and any dwellings, buildings, or other structures~~  
2288 ~~located on the premises, and to take custody of the person who~~  
2289 ~~is the subject of the ex parte order.~~

2290 ~~(d)(e)~~ The department shall receive and maintain the  
2291 copies of ex parte petitions and orders for involuntary  
2292 examinations pursuant to this section, involuntary services  
2293 petitions and orders, involuntary outpatient services orders  
2294 issued pursuant to s. 394.4655, involuntary inpatient placement  
2295 orders issued pursuant to s. 394.467, professional certificates,  
2296 and law enforcement officers' reports. These documents are ~~shall~~  
2297 ~~be considered~~ part of the clinical record, governed by the  
2298 ~~provisions of~~ s. 394.4615. These documents shall be used to  
2299 prepare annual reports analyzing the data obtained from these  
2300 documents, without information identifying individuals held for  
2301 examination or admitted for treatment patients, and shall



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2302 provide copies of reports to the department, the President of  
2303 the Senate, the Speaker of the House of Representatives, and the  
2304 minority leaders of the Senate and the House of Representatives.

2305 (e)-(f) An individual held for examination ~~A patient~~ shall  
2306 be examined by a physician, ~~or a clinical~~ psychologist, or ~~by a~~  
2307 psychiatric nurse performing within the framework of an  
2308 established protocol with a psychiatrist at a facility without  
2309 unnecessary delay to determine if the criteria for involuntary  
2310 services are met. Emergency treatment may be provided upon the  
2311 order of a physician if the physician determines that such  
2312 treatment is necessary for the safety of the individual ~~patient~~  
2313 or others. The individual ~~patient~~ may not be released by the  
2314 receiving facility or its contractor without the documented  
2315 approval of a psychiatrist or a clinical psychologist or, if the  
2316 receiving facility is owned or operated by a hospital or health  
2317 system, the release may also be approved by a psychiatric nurse  
2318 performing within the framework of an established protocol with  
2319 a psychiatrist, or an attending emergency department physician  
2320 with experience in the diagnosis and treatment of mental illness  
2321 after completion of an involuntary examination pursuant to this  
2322 subsection. A psychiatric nurse may not approve the release of a  
2323 patient if the involuntary examination was initiated by a  
2324 psychiatrist unless the release is approved by the initiating  
2325 psychiatrist.

2326 (f)-(g) Within the 72-hour examination period or, if the 72  
2327 hours ends on a weekend or holiday, no later than the next  
2328 working day thereafter, one of the following actions must be  
2329 taken, based on the individual needs of the patient:

2330 1. The patient shall be released, unless he or she is



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2331 charged with a crime, in which case the patient shall be  
2332 returned to the custody of a law enforcement officer;

2333 2. The patient shall be released, subject to the provisions  
2334 of subparagraph 1., for voluntary outpatient treatment;

2335 3. The patient, unless he or she is charged with a crime,  
2336 shall be asked to give express and informed consent to placement  
2337 as a voluntary patient and, if such consent is given, the  
2338 patient shall be admitted as a voluntary patient; or

2339 4. A petition for involuntary services shall be filed in  
2340 the circuit court if inpatient treatment is deemed necessary or  
2341 with the criminal county court, as defined in s. 394.4655(1), as  
2342 applicable. When inpatient treatment is deemed necessary, the  
2343 least restrictive treatment consistent with the optimum  
2344 improvement of the patient's condition shall be made available.  
2345 When a petition is to be filed for involuntary outpatient  
2346 placement, it shall be filed by one of the petitioners specified  
2347 in s. 394.4655(4)(a). A petition for involuntary inpatient  
2348 placement shall be filed by the facility administrator.

2349 (g) (h) If an individual ~~A person~~ for whom an involuntary  
2350 examination has been initiated ~~who~~ is also being evaluated or  
2351 treated at a hospital for an emergency medical condition as  
2352 defined ~~specified~~ in s. 395.002, the involuntary examination  
2353 ~~must be examined by a facility within 72 hours. The 72-hour~~  
2354 period begins when the individual patient arrives at the  
2355 hospital and ceases when a ~~the attending~~ physician documents  
2356 that the individual patient has an emergency medical condition.  
2357 The 72-hour period resumes when the physician documents that the  
2358 emergency medical condition has stabilized or does not exist. If  
2359 the patient is examined at a hospital providing emergency



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2360 medical services by a professional qualified to perform an  
2361 involuntary examination and is found as a result of that  
2362 examination not to meet the criteria for involuntary outpatient  
2363 services pursuant to s. 394.4655(2) or involuntary inpatient  
2364 placement pursuant to s. 394.467(1), the patient may be offered  
2365 voluntary services or placement, if appropriate, or released  
2366 directly from the hospital providing emergency medical services.  
2367 ~~The finding by the professional that the patient has been~~  
2368 ~~examined and does not meet the criteria for involuntary~~  
2369 ~~inpatient services or involuntary outpatient placement must be~~  
2370 ~~entered into the patient's clinical record. This paragraph is~~  
2371 ~~not intended to prevent~~ A hospital providing emergency medical  
2372 services may transfer an individual from appropriately  
2373 ~~transferring a patient~~ to another hospital before stabilization  
2374 if the requirements of s. 395.1041(3)(c) are ~~have been~~ met.

2375 ~~(i)~~ One of the following must occur within 12 hours after a  
2376 ~~the patient's attending~~ physician documents that the  
2377 individual's ~~patient's~~ medical condition has stabilized or that  
2378 an emergency medical condition has been stabilized or does not  
2379 exist:

2380 1. The individual shall be examined by a physician,  
2381 psychiatric nurse, or psychologist and, if found not to meet the  
2382 criteria for involuntary examination pursuant to this section,  
2383 shall be released directly from the hospital providing the  
2384 emergency medical services. The results of the examination,  
2385 including the final disposition, shall be entered into the  
2386 clinical record ~~patient must be examined by a facility and~~  
2387 ~~released; or~~

2388 2. The individual shall be transferred to a receiving



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2389 facility for examination if patient must be transferred to a  
2390 designated facility in which appropriate medical and mental  
2391 health treatment is available. However, the receiving facility  
2392 must be notified of the transfer within 2 hours after the  
2393 individual's ~~patient's~~ condition has been stabilized or after  
2394 determination that an emergency medical condition does not  
2395 exist.

2396 (3) NOTICE OF RELEASE.—Notice of the release shall be given  
2397 to the individual's ~~patient's~~ guardian, health care surrogate or  
2398 proxy, or representative, ~~to any person who executed a~~  
2399 ~~certificate admitting the patient to the receiving facility,~~ and  
2400 to any court that ordered the individual's examination ~~which~~  
2401 ~~ordered the patient's evaluation.~~

2402 Section 20. Section 394.467, Florida Statutes, is amended  
2403 to read:

2404 394.467 Involuntary inpatient placement.—

2405 (1) CRITERIA.—An individual ~~A person~~ may be ordered for  
2406 involuntary inpatient placement for treatment upon a finding of  
2407 the court by clear and convincing evidence that:

2408 (a) He or she has a mental illness and because of his or  
2409 her mental illness:

2410 1.a. He or she has refused voluntary inpatient placement  
2411 for treatment after sufficient and conscientious explanation and  
2412 disclosure of the purpose of inpatient placement for treatment;  
2413 or

2414 b. He or she is unable to determine for himself or herself  
2415 whether inpatient placement is necessary; and

2416 2.a. He or she is incapable of surviving alone or with the  
2417 help of willing and responsible family or friends, including



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2418 available alternative services, and, without treatment, is  
2419 likely to suffer from neglect or refuse to care for himself or  
2420 herself, and such neglect or refusal poses a real and present  
2421 threat of substantial harm to his or her well-being; or

2422       b. There is substantial likelihood that in the near future  
2423 he or she will inflict serious bodily harm on self or others, as  
2424 evidenced by recent behavior causing, attempting, or threatening  
2425 such harm; and

2426       (b) All available less restrictive treatment alternatives  
2427 that would offer an opportunity for improvement of his or her  
2428 condition have been judged to be inappropriate.

2429       (2) ADMISSION TO A TREATMENT FACILITY.—An individual A  
2430 patient may be retained by a facility or involuntarily ordered  
2431 placed in a treatment facility upon the recommendation of the  
2432 administrator of the facility where the individual patient has  
2433 been examined and after adherence to the notice and hearing  
2434 procedures provided in s. 394.4599. The recommendation must be  
2435 supported by the opinion of a psychiatrist and the second  
2436 opinion of a ~~clinical~~ psychologist or another psychiatrist, both  
2437 of whom have personally examined the individual patient within  
2438 the preceding 72 hours, that the criteria for involuntary  
2439 inpatient placement are met. However, if the administrator  
2440 certifies that a psychiatrist or ~~clinical~~ psychologist is not  
2441 available to provide the second opinion, the second opinion may  
2442 be provided by a licensed physician who has postgraduate  
2443 training and experience in diagnosis and treatment of mental  
2444 illness or by a psychiatric nurse. Any opinion authorized in  
2445 this subsection may be conducted through a face-to-face  
2446 examination, in person, or by electronic means. Such





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2447 recommendation shall be entered on a petition for involuntary  
2448 inpatient placement certificate that authorizes the facility to  
2449 retain the individual being held ~~patient~~ pending transfer to a  
2450 treatment facility or completion of a hearing.

2451 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

2452 (a) The administrator of the receiving facility shall file  
2453 a petition for involuntary inpatient placement in the court in  
2454 the county where the individual ~~patient~~ is located. Upon filing,  
2455 the clerk of the court shall provide copies to the department,  
2456 the individual, his or her ~~patient, the patient's~~ guardian,  
2457 guardian advocate, health care surrogate or proxy, or  
2458 representative, and the state attorney and public defender of  
2459 the judicial circuit in which the individual ~~patient~~ is located.  
2460 A fee may not be charged for the filing of a petition under this  
2461 subsection.

2462 (b) A receiving or treatment facility filing a petition for  
2463 involuntary inpatient placement shall send a copy of the  
2464 petition to the Department of Children and Families by the next  
2465 working day.

2466 (4) APPOINTMENT OF COUNSEL.—

2467 Within 1 court working day after the filing of a petition  
2468 for involuntary inpatient placement, the court shall appoint the  
2469 public defender to represent the individual ~~person~~ who is the  
2470 subject of the petition, unless the person is otherwise  
2471 represented by counsel. The clerk of the court shall ~~immediately~~  
2472 notify the public defender of the ~~such~~ appointment. Any attorney  
2473 representing the individual ~~patient~~ shall have access to the  
2474 individual ~~patient~~, witnesses, and records relevant to the  
2475 presentation of the individual's ~~patient's~~ case and shall



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2476 represent the interests of the individual patient, regardless of  
2477 the source of payment to the attorney.

2478 (5) CONTINUANCE OF HEARING.—The individual patient is  
2479 entitled, with the concurrence of the individual's patient's  
2480 counsel, to at least one continuance of the hearing for up to 4  
2481 weeks.

2482 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

2483 (a)1. The court shall hold the hearing on involuntary  
2484 services inpatient placement within 5 court working days after  
2485 the petition is filed, unless a continuance is granted.

2486 2. Except for good cause documented in the court file,  
2487 which may be demonstrated by administrative order of the court,  
2488 the hearing must be held in the receiving or treatment facility  
2489 where the individual is located. If the hearing cannot be held  
2490 in the receiving or treatment facility, it must be held in a  
2491 location convenient to the individual as is consistent with  
2492 orderly procedure, and which is not likely to be injurious to  
2493 the individual's county or the facility, as appropriate, where  
2494 the patient is located, must be as convenient to the patient as  
2495 is consistent with orderly procedure, and shall be conducted in  
2496 physical settings not likely to be injurious to the patient's  
2497 condition. If the court finds that the individual's patient's  
2498 attendance at the hearing is not consistent with the best  
2499 interests of the individual patient, and the individual's  
2500 patient's counsel does not object, the court may waive the  
2501 presence of the individual patient from all or any portion of  
2502 the hearing. Alternatively, if the individual wishes to  
2503 voluntarily waive his or her attendance at the hearing, the  
2504 court must determine that the individual's waiver is knowing,



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2505 intelligent, and voluntary before waiving the presence of the  
2506 individual from all or any portion of the hearing. ~~The state~~  
2507 attorney for the circuit in which the patient is located shall  
2508 represent the state, rather than the petitioning facility  
2509 administrator, as the real party in interest in the proceeding.

2510         3. The court may appoint a magistrate to preside at the  
2511 hearing. One of the professionals who executed the petition for  
2512 involuntary inpatient placement certificate shall be a witness.  
2513 The court shall ensure that the individual and his or her  
2514 guardian, guardian advocate, health care surrogate or proxy, or  
2515 representative are informed ~~patient and the patient's guardian~~  
2516 ~~or representative shall be informed by the court~~ of the right to  
2517 an independent expert examination. If the individual patient  
2518 cannot afford such an examination, the court shall ensure that  
2519 one is provided, as otherwise provided for by law. The  
2520 independent expert's report is confidential and not  
2521 discoverable, unless the expert is ~~to be~~ called as a witness for  
2522 the individual patient at the hearing. The testimony in the  
2523 hearing must be ~~given~~ under oath, and the proceedings must be  
2524 recorded. The individual patient may refuse to testify at the  
2525 hearing.

2526         (b) If the court concludes that the individual patient  
2527 meets the criteria for involuntary services ~~inpatient placement,~~  
2528 it may order that the individual patient be transferred to a  
2529 treatment facility or, if the individual patient is at a  
2530 treatment facility, that the individual patient be retained  
2531 there or be treated at any other appropriate facility, or that  
2532 the individual patient receive services, on an involuntary  
2533 basis, for up to 90 days. However, any order for involuntary



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2534 mental health services in a treatment facility may be for up to  
2535 6 months. The order must ~~shall~~ specify the nature and extent of  
2536 the individual's ~~patient's~~ mental illness. The court may not  
2537 order an individual with traumatic brain injury or dementia who  
2538 lacks a co-occurring mental illness to be involuntarily placed  
2539 in a state treatment facility. The facility shall discharge the  
2540 individual ~~a patient~~ any time the individual ~~patient~~ no longer  
2541 meets the criteria for involuntary inpatient placement, unless  
2542 the individual ~~patient~~ has transferred to voluntary status.

2543 (c) If at any time before the conclusion of the hearing on  
2544 involuntary inpatient placement it appears to the court that the  
2545 individual ~~person~~ does not meet the criteria for involuntary  
2546 inpatient placement under this section, but instead meets the  
2547 criteria for involuntary outpatient services, the court may  
2548 order the person evaluated for involuntary outpatient services  
2549 pursuant to s. 394.4655. The petition and hearing procedures set  
2550 forth in s. 394.4655 shall apply. If the person instead meets  
2551 the criteria for involuntary assessment, protective custody, or  
2552 involuntary admission pursuant to s. 397.675, then the court may  
2553 order the person to be admitted for involuntary assessment for a  
2554 period of 5 days pursuant to s. 397.6811. Thereafter, all  
2555 proceedings are governed by chapter 397.

2556 (f) ~~(d)~~ At the hearing on involuntary inpatient placement,  
2557 the court shall consider testimony and evidence regarding the  
2558 individual's ~~patient's~~ competence to consent to treatment. If  
2559 the court finds that the individual ~~patient~~ is incompetent to  
2560 consent to treatment, it shall appoint a guardian advocate as  
2561 provided in s. 394.4598.

2562 (g) ~~(e)~~ The administrator of the petitioning facility shall



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2563 provide a copy of the court order and adequate documentation of  
2564 an individual's ~~a patient's~~ mental illness to the administrator  
2565 of a treatment facility if the individual ~~patient~~ is ordered for  
2566 involuntary inpatient placement, whether by civil or criminal  
2567 court. The documentation must include any advance directives  
2568 made by the individual ~~patient~~, a psychiatric evaluation of the  
2569 individual ~~patient~~, and any evaluations of the individual  
2570 ~~patient~~ performed by a psychiatric nurse, a ~~clinical~~  
2571 psychologist, a marriage and family therapist, a mental health  
2572 counselor, or a clinical social worker. The administrator of a  
2573 treatment facility may refuse admission to an individual ~~any~~  
2574 ~~patient~~ directed to its facilities on an involuntary basis,  
2575 whether by civil or criminal court order, who is not accompanied  
2576 by adequate orders and documentation.

2577 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT  
2578 PLACEMENT.—

2579 (a) Hearings on petitions for continued involuntary  
2580 ~~inpatient~~ placement of an individual placed at any treatment  
2581 facility are administrative hearings and must be conducted in  
2582 accordance with s. 120.57(1), except that any order entered by  
2583 the administrative law judge is final and subject to judicial  
2584 review in accordance with s. 120.68. Orders concerning  
2585 individuals ~~patients~~ committed after successfully pleading not  
2586 guilty by reason of insanity are governed by s. 916.15.

2587 1. ~~(b)~~ If the individual ~~patient~~ continues to meet the  
2588 criteria for involuntary inpatient placement and is being  
2589 treated at a treatment facility, the administrator shall, before  
2590 the expiration of the period the treatment facility is  
2591 authorized to retain the individual ~~patient~~, file a petition



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2592 requesting authorization for continued involuntary inpatient  
2593 placement. The request must be accompanied by a statement from  
2594 the individual's ~~patient's~~ physician, psychiatrist, psychiatric  
2595 nurse, or ~~clinical~~ psychologist justifying the request, a brief  
2596 description of the individual's ~~patient's~~ treatment during the  
2597 time he or she was involuntarily placed, and an individualized  
2598 plan of continued treatment. Notice of the hearing must be  
2599 provided ~~as provided~~ in accordance with s. 394.4599. If an  
2600 individual's attendance at the hearing is voluntarily waived,  
2601 the administrative law judge must determine that the waiver is  
2602 knowing, intelligent, and voluntary before waiving the presence  
2603 of the individual from all or a portion of the hearing.  
2604 Alternatively, if an individual's ~~a patient's~~ attendance at the  
2605 hearing is voluntarily waived, the administrative law judge must  
2606 determine that the waiver is knowing and voluntary before  
2607 waiving the presence of the individual ~~patient~~ from all or a  
2608 portion of the hearing. Alternatively, if at the hearing the  
2609 administrative law judge finds that attendance at the hearing is  
2610 not consistent with the individual's best interests ~~of the~~  
2611 ~~patient~~, the administrative law judge may waive the presence of  
2612 the individual ~~patient~~ from all or any portion of the hearing,  
2613 unless the individual ~~patient~~, through counsel, objects to the  
2614 waiver of presence. The testimony in the hearing must be under  
2615 oath, and the proceedings must be recorded.

2616 2.(e) Unless the individual ~~patient~~ is otherwise  
2617 represented or is ineligible, he or she shall be represented at  
2618 the hearing on the petition for continued involuntary inpatient  
2619 placement by the public defender of the circuit in which the  
2620 facility is located.



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2621           3. The Division of Administrative Hearings shall ensure  
2622 that the individual who is the subject of the petition and his  
2623 or her guardian, guardian advocate, health care surrogate or  
2624 proxy, or representative are informed of the individual's right  
2625 to an independent expert examination. If the individual cannot  
2626 afford such an examination, the court shall ensure that one is  
2627 provided as otherwise provided for by law.

2628           4.-(d) If at a hearing it is shown that the individual  
2629 ~~patient~~ continues to meet the criteria for involuntary inpatient  
2630 placement, the administrative law judge shall sign the order for  
2631 continued involuntary inpatient placement for up to 90 days.  
2632 However, any order for involuntary mental health services in a  
2633 treatment facility may be for up to 6 months. The same procedure  
2634 must shall be repeated before the expiration of each additional  
2635 period the individual ~~patient~~ is retained.

2636           5.-(e) If continued involuntary inpatient placement is  
2637 necessary for an individual ~~a patient~~ admitted while serving a  
2638 criminal sentence, but his or her sentence is about to expire,  
2639 or for a minor involuntarily placed, but who is about to reach  
2640 the age of 18, the administrator shall petition the  
2641 administrative law judge for an order authorizing continued  
2642 involuntary inpatient placement.

2643           6.-(f) If the individual ~~patient~~ has been previously found  
2644 incompetent to consent to treatment, the administrative law  
2645 judge shall consider testimony and evidence regarding the  
2646 individual's ~~patient's~~ competence. If the administrative law  
2647 judge finds evidence that the individual ~~patient~~ is now  
2648 competent to consent to treatment, the ~~administrative law~~ judge  
2649 may issue a recommended order to the court that found the



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2650 individual patient incompetent to consent to treatment that the  
2651 individual's patient's competence be restored and that any  
2652 guardian advocate previously appointed be discharged.

2653 7.(g) If the individual patient has been ordered to undergo  
2654 involuntary inpatient placement and has previously been found  
2655 incompetent to consent to treatment, the court shall consider  
2656 testimony and evidence regarding the individual's patient's  
2657 incompetence. If the individual's patient's competency to  
2658 consent to treatment is restored, the discharge of the guardian  
2659 advocate shall be governed by s. 394.4598.

2660  
2661 The procedure required in this paragraph subsection must be  
2662 followed before the expiration of each additional period the  
2663 individual is patient is involuntarily receiving involuntary  
2664 services.

2665 (8) RETURN TO FACILITY.—If an individual a patient  
2666 involuntarily held at a treatment facility under this part  
2667 leaves the facility without the administrator's authorization,  
2668 the administrator may authorize a search for the individual  
2669 patient and his or her return to the facility. The administrator  
2670 may request the assistance of a law enforcement agency in this  
2671 regard.

2672 Section 21. Section 394.46715, Florida Statutes, is amended  
2673 to read:

2674 394.46715 Rulemaking authority.—The department may adopt  
2675 rules to administer this part.

2676 Section 22. Section 394.4672, Florida Statutes, is amended  
2677 to read:

2678 394.4672 Procedure for placement of veteran with federal





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2679 agency.-

2680 (1) A facility owned, operated, or administered by the  
2681 United States Department of Veterans Affairs that provides  
2682 mental health services shall have authority as granted by the  
2683 Department of Veterans' Affairs to:

2684 (a) Initiate and conduct involuntary examination pursuant  
2685 to s. 394.463.

2686 (b) Provide voluntary admission and treatment pursuant to  
2687 s. 394.4625.

2688 (c) Petition for involuntary placement pursuant to s.  
2689 394.467.

2690 (2)~~(1)~~ If the court determines that an individual meets the  
2691 criteria for involuntary placement and he or she ~~Whenever it is~~  
2692 ~~determined by the court that a person meets the criteria for~~  
2693 ~~involuntary placement and it appears that such person is~~  
2694 eligible for care or treatment by the United States Department  
2695 of Veterans Affairs or other agency of the United States  
2696 Government, the court, upon receipt of documentation a  
2697 ~~certificate~~ from the United States Department of Veterans  
2698 Affairs or another ~~such other~~ agency showing that facilities are  
2699 available and that the individual ~~person~~ is eligible for care or  
2700 treatment therein, may place that individual ~~person~~ with the  
2701 United States Department of Veterans Affairs or other federal  
2702 agency. The individual ~~person whose placement is sought~~ shall be  
2703 personally served with notice of the pending placement  
2704 proceeding in the manner as provided in this part., ~~and nothing~~  
2705 ~~in~~ This section does not ~~shall~~ affect the individual's ~~his or~~  
2706 ~~her~~ right to appear and be heard in the proceeding. Upon being  
2707 placed, the individual is ~~placement, the person shall be~~ subject



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2708 to the ~~rules and~~ regulations of the United States Department of  
2709 Veterans Affairs or other federal agency.

2710 (3)~~(2)~~ The judgment or order of placement by a court of  
2711 competent jurisdiction of another state or of the District of  
2712 Columbia, which places an individual ~~placing a person~~ with the  
2713 United States Department of Veterans Affairs or other federal  
2714 agency for care or treatment, has, ~~shall have~~ the same force and  
2715 effect in this state as in the jurisdiction of the court  
2716 entering the judgment or making the order. ~~and~~ The courts of  
2717 the placing state or of the District of Columbia shall retain ~~be~~  
2718 ~~deemed to have retained~~ jurisdiction over the individual ~~of the~~  
2719 ~~person~~ so placed. Consent is ~~hereby~~ given to the application of  
2720 the law of the placing state or district with respect to the  
2721 authority of the chief officer of any facility of the United  
2722 States Department of Veterans Affairs or other federal agency  
2723 operated in this state to retain custody or to transfer, parole,  
2724 or discharge the individual ~~person~~.

2725 (4)~~(3)~~ Upon receipt of documentation from a certificate of  
2726 the United States Department of Veterans Affairs or another such  
2727 ~~other~~ federal agency that facilities are available for the care  
2728 or treatment of individuals who have mental illness and that the  
2729 individual ~~mentally ill persons and that the person is eligible~~  
2730 for that care or treatment, the administrator of the receiving  
2731 or treatment facility may ~~cause the transfer of~~ that individual  
2732 person to the United States Department of Veterans Affairs or  
2733 other federal agency. Upon ~~effecting~~ such transfer, the  
2734 committing court shall be notified by the transferring agency.  
2735 An individual may not be transferred ~~No person shall be~~  
2736 ~~transferred to the United States Department of Veterans Affairs~~



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2737 ~~or other federal agency~~ if he or she is confined pursuant to the  
2738 conviction of any felony or misdemeanor or if he or she has been  
2739 acquitted of the charge solely on the ground of insanity, unless  
2740 before ~~prior to~~ transfer the court placing the individual ~~such~~  
2741 ~~person~~ enters an order for the transfer after appropriate motion  
2742 and hearing and without objection by the United States  
2743 Department of Veterans Affairs.

2744 (5) ~~(4)~~ An individual ~~Any person~~ transferred as provided in  
2745 this section shall be deemed to be placed with the United States  
2746 Department of Veterans Affairs or other federal agency pursuant  
2747 to the original order ~~placement~~.

2748 Section 23. Section 394.4685, Florida Statutes, is amended  
2749 to read:

2750 394.4685 Transfer of patients among facilities.—

2751 (1) TRANSFER BETWEEN PUBLIC FACILITIES.—

2752 (a) An individual ~~A patient~~ who has been admitted to a  
2753 public receiving facility, or his or her ~~the~~ family member,  
2754 guardian, ~~or~~ guardian advocate, or health care surrogate or  
2755 proxy of such patient, may request the transfer of the  
2756 individual patient to another public receiving facility. An  
2757 individual ~~A patient~~ who has been admitted to a public treatment  
2758 facility, or his or her ~~the~~ family member, guardian, ~~or~~ guardian  
2759 advocate, or health care surrogate or proxy of such patient, may  
2760 request the transfer of the individual patient to another public  
2761 treatment facility. Depending on the medical treatment or mental  
2762 health treatment needs of the individual patient and the  
2763 availability of appropriate facility resources, the individual  
2764 ~~patient~~ may be transferred at the discretion of the department.  
2765 If the department approves the transfer of an individual on



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2766 involuntary status, notice in accordance with involuntary  
2767 ~~patient, notice according to the provisions of s. 394.4599 must~~  
2768 be given before ~~shall be given prior to~~ the transfer by the  
2769 transferring facility. The department shall respond to the  
2770 request for transfer within 2 working days after receipt of the  
2771 request by the facility administrator.

2772 (b) ~~If~~ When required by the medical treatment or mental  
2773 health treatment needs of the individual patient or the  
2774 efficient use utilization of a public receiving or public  
2775 treatment facility, an individual a patient may be transferred  
2776 from one receiving facility to another, ~~or from~~ one treatment  
2777 facility to another, ~~at the department's discretion,~~ or, with  
2778 the express and informed consent of the individual or the  
2779 individual's guardian, guardian advocate, or health care  
2780 surrogate or proxy patient or the patient's guardian or guardian  
2781 advocate, to a facility in another state. Notice in accordance  
2782 with ~~according to the provisions of s. 394.4599 must shall~~ be  
2783 given before ~~prior to~~ the transfer by the transferring facility.  
2784 If prior notice is not possible, notice of the transfer shall be  
2785 provided as soon as practicable after the transfer.

2786 (2) TRANSFER FROM PUBLIC TO PRIVATE FACILITIES.—

2787 (a) An individual ~~A patient~~ who has been admitted to a  
2788 public receiving or public treatment facility and has requested,  
2789 ~~either~~ personally or through his or her guardian, ~~or~~ guardian  
2790 advocate, or health care surrogate or proxy, and is able to pay  
2791 for treatment in a private facility shall be transferred at the  
2792 individual's patient's expense to a private facility upon  
2793 acceptance of the individual patient by the private facility.

2794 (b) A public receiving facility initiating the a patient



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2795 transfer of an individual to a licensed hospital for acute care  
2796 mental health services not accessible through the public  
2797 receiving facility shall notify the hospital of such transfer  
2798 and send the hospital all records relating to the emergency  
2799 psychiatric or medical condition.

2800 (3) TRANSFER FROM PRIVATE TO PUBLIC FACILITIES.—

2801 (a) An individual or the individual's ~~A patient or the~~  
2802 ~~patient's~~ guardian, ~~or~~ guardian advocate, or health care  
2803 surrogate or proxy may request the transfer of the individual  
2804 ~~patient~~ from a private to a public facility, and the individual  
2805 ~~patient~~ may be so transferred upon acceptance of the individual  
2806 ~~patient~~ by the public facility.

2807 (b) A private facility may request the transfer of an  
2808 individual ~~a patient~~ from the facility to a public facility, and  
2809 the individual ~~patient~~ may be so transferred upon acceptance of  
2810 the individual ~~patient~~ by the public facility. The cost of such  
2811 transfer ~~is shall be~~ the responsibility of the transferring  
2812 facility.

2813 (c) A public facility must respond to a request for the  
2814 transfer of an individual ~~a patient~~ within 24 hours ~~2 working~~  
2815 ~~days~~ after receipt of the request.

2816 (4) TRANSFER BETWEEN PRIVATE FACILITIES.—

2817 (a) An individual being held ~~A patient~~ in a private  
2818 facility or his or her ~~the patient's~~ guardian, ~~or~~ guardian  
2819 advocate, or health care surrogate or proxy may request the  
2820 transfer of the individual ~~patient~~ to another private facility  
2821 at any time, and the individual ~~patient~~ shall be transferred  
2822 upon acceptance of the individual ~~patient~~ by the facility to  
2823 which transfer is sought.



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2824           (b) A private facility may request the transfer of an  
2825 individual from the facility to another private facility, and  
2826 the individual may be transferred upon acceptance of the  
2827 individual by the facility to which the individual is being  
2828 transferred.

2829           Section 24. Section 394.469, Florida Statutes, is amended  
2830 to read:

2831           394.469 Discharge from ~~of~~ involuntary placement patients.-

2832           (1) POWER TO DISCHARGE.-At any time an individual ~~a patient~~  
2833 is found to no longer meet the criteria for involuntary  
2834 placement, the administrator shall:

2835           (a) Discharge the individual ~~patient,~~ unless the patient is  
2836 under a criminal charge, in which case the patient shall be  
2837 transferred to the custody of the appropriate law enforcement  
2838 officer;

2839           (b) Transfer the individual ~~patient~~ to voluntary status on  
2840 the administrator's ~~his or her~~ own authority or at the  
2841 individual's ~~patient's~~ request, unless the individual is ~~patient~~  
2842 is under criminal charge or adjudicated incapacitated;

2843           (c) Discharge the individual to the custody of a law  
2844 enforcement officer, if the individual is currently charged with  
2845 any crime and has not been released from law enforcement custody  
2846 by posting of a bond, or by a pretrial conditional release or by  
2847 other judicial release; or

2848           ~~(d)-(e)~~ Place an improved individual ~~patient,~~ except  
2849 individuals described in paragraph (c) ~~a patient under a~~  
2850 ~~riminal charge,~~ on convalescent status in the care of a  
2851 community facility.

2852           (2) NOTICE.-Notice of discharge or transfer of an



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2853 individual must be provided in accordance with a patient shall  
2854 ~~be given as provided in s. 394.4599.~~

2855 Section 25. Section 394.473, Florida Statutes, is amended  
2856 to read:

2857 394.473 Attorney ~~Attorney's~~ fee; expert witness fee.—

2858 (1) ~~In the case of an indigent person for whom~~ An attorney  
2859 ~~is~~ appointed to represent an individual pursuant to the  
2860 ~~provisions of this part, the attorney~~ shall be compensated by  
2861 the state pursuant to s. 27.5304. A public defender appointed to  
2862 represent an indigent individual may not ~~In the case of an~~  
2863 ~~indigent person, the court may appoint a public defender. The~~  
2864 ~~public defender shall~~ receive no additional compensation other  
2865 than that usually paid his or her office.

2866 (2) If an indigent individual's case requires ~~In the case~~  
2867 ~~of an indigent person for whom~~ expert testimony is required in a  
2868 court hearing pursuant to ~~the provisions of this part~~ act, the  
2869 expert shall be compensated by the state pursuant to s. 27.5303  
2870 or s. 27.5304, as applicable, unless the expert, ~~except one who~~  
2871 is classified as a full-time employee of the state or ~~who~~ is  
2872 receiving remuneration from the state for his or her time in  
2873 attendance at the hearing, ~~shall be compensated by the state~~  
2874 ~~pursuant to s. 27.5304.~~

2875 Section 26. Section 394.475, Florida Statutes, is amended  
2876 to read:

2877 394.475 Acceptance, examination, and involuntary services  
2878 ~~placement of Florida residents~~ from out-of-state mental health  
2879 authorities.—

2880 (1) Upon the request of the state mental health authority  
2881 of another state, the department may ~~is authorized to~~ accept an



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2882 individual as a patient, for up to ~~a period of not more than~~ 15  
2883 days, ~~a person~~ who is and has been a bona fide resident of this  
2884 state for at least ~~a period of not less than~~ 1 year.

2885 (2) An individual ~~Any person~~ received pursuant to  
2886 subsection (1) shall be examined by the staff of the state  
2887 facility where the individual ~~such patient~~ has been admitted  
2888 ~~accepted, which examination shall be completed~~ during the 15-day  
2889 period.

2890 (3) If, upon examination, the individual ~~such a person~~  
2891 requires continued involuntary services ~~placement~~, a petition  
2892 for a hearing regarding involuntary services ~~placement~~ shall be  
2893 filed with the court of the county where ~~wherein~~ the treatment  
2894 facility receiving the individual ~~patient~~ is located or the  
2895 county where the individual ~~patient~~ is a resident.

2896 (4) During the pendency of the examination period and the  
2897 pendency of the involuntary services ~~placement~~ proceedings, an  
2898 individual ~~such person~~ may continue to be held in the treatment  
2899 facility unless the court having jurisdiction enters an order to  
2900 the contrary.

2901 Section 27. Section 394.4785, Florida Statutes, is amended  
2902 to read:

2903 394.4785 Children and adolescents; admission and placement  
2904 in mental health facilities.-

2905 (1) A child or adolescent ~~as~~ defined as a minor in s.  
2906 394.455(31) ~~in s. 394.492~~ may not be admitted to a state-owned  
2907 or state-operated mental health treatment facility. A minor  
2908 ~~child~~ may be admitted pursuant to s. 394.4625, s. 394.463, or s.  
2909 394.467 to a crisis stabilization unit or a residential  
2910 treatment center licensed under this chapter or a hospital





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2911 licensed under chapter 395. The treatment center, unit, or  
2912 hospital must provide the least restrictive available treatment  
2913 that is appropriate to the ~~individual~~ needs of the minor child  
2914 ~~or adolescent~~ and must adhere to the guiding principles, system  
2915 of care, and service planning provisions of ~~contained in~~ part  
2916 III of this chapter.

2917 (2) A minor who is younger than 14 years of age ~~person~~  
2918 ~~under the age of 14~~ who is admitted to a any hospital ~~licensed~~  
2919 ~~pursuant to chapter 395~~ may not be admitted to a bed in a room  
2920 or ward with an adult ~~patient~~ in a mental health unit or share  
2921 common areas with an adult ~~patient~~ in a mental health unit.  
2922 However, a minor ~~person~~ 14 years of age or older may be admitted  
2923 to a bed in a room or ward in the mental health unit with an  
2924 adult if a the admitting physician documents in the clinical  
2925 ~~ease~~ record that the services are ~~such placement is~~ medically  
2926 indicated or for reasons of safety. The ~~Such~~ placement shall be  
2927 reviewed by a the attending physician or a designee or on-call  
2928 physician each day and documented in the clinical ~~ease~~ record.

2929 Section 28. Section 394.4786, Florida Statutes, is  
2930 repealed.

2931 Section 29. Section 394.47865, Florida Statutes, is  
2932 repealed.

2933 Section 30. Section 394.4787, Florida Statutes, is  
2934 repealed.

2935 Section 31. Section 394.4788, Florida Statutes, is  
2936 repealed.

2937 Section 32. Section 394.4789, Florida Statutes, is  
2938 repealed.

2939 Section 33. Paragraph (a) of subsection (5) of section



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2940 20.425, Florida Statutes, is amended to read:  
2941       20.425 Agency for Health Care Administration; trust funds.—  
2942 The following trust funds shall be administered by the Agency  
2943 for Health Care Administration:  
2944       (5) Public Medical Assistance Trust Fund.  
2945       (a) Funds to be credited to and uses of the trust fund  
2946 shall be administered in accordance with s. the provisions of  
2947 ~~ss. 394.4786 and~~ 409.918.  
2948       Section 34. Paragraph (a) of subsection (3) and subsection  
2949 (6) of section 39.407, Florida Statutes, are amended to read:  
2950       39.407 Medical, psychiatric, and psychological examination  
2951 and treatment of child; physical, mental, or substance abuse  
2952 examination of person with or requesting child custody.—  
2953       (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.  
2954 or paragraph (e), before the department provides psychotropic  
2955 medications to a child in its custody, the prescribing physician  
2956 shall attempt to obtain express and informed consent, as defined  
2957 in s. 394.455(15) and as described in s. 394.459(3) ~~(a)~~, from the  
2958 child's parent or legal guardian. The department must take steps  
2959 necessary to facilitate the inclusion of the parent in the  
2960 child's consultation with the physician. However, if the  
2961 parental rights of the parent have been terminated, the parent's  
2962 location or identity is unknown or cannot reasonably be  
2963 ascertained, or the parent declines to give express and informed  
2964 consent, the department may, after consultation with the  
2965 prescribing physician, seek court authorization to provide the  
2966 psychotropic medications to the child. Unless parental rights  
2967 have been terminated and if it is possible to do so, the  
2968 department shall continue to involve the parent in the



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2969 decisionmaking process regarding the provision of psychotropic  
2970 medications. If, at any time, a parent whose parental rights  
2971 have not been terminated provides express and informed consent  
2972 to the provision of a psychotropic medication, the requirements  
2973 of this section that the department seek court authorization do  
2974 not apply to that medication until such time as the parent no  
2975 longer consents.

2976         2. Any time the department seeks a medical evaluation to  
2977 determine the need to initiate or continue a psychotropic  
2978 medication for a child, the department must provide to the  
2979 evaluating physician all pertinent medical information known to  
2980 the department concerning that child.

2981         (6) Children who are in the legal custody of the department  
2982 may be placed by the department, without prior approval of the  
2983 court, in a residential treatment center licensed under s.  
2984 394.875 or a hospital licensed under chapter 395 for residential  
2985 mental health treatment only pursuant to this section or may be  
2986 placed by the court in accordance with an order of involuntary  
2987 examination or involuntary services placement ~~placement~~ entered pursuant  
2988 to s. 394.463 or s. 394.467. All children placed in a  
2989 residential treatment program under this subsection must have a  
2990 guardian ad litem appointed.

2991         (a) As used in this subsection, the term:

2992         1. "Residential treatment" means placement for observation,  
2993 diagnosis, or treatment of an emotional disturbance in a  
2994 residential treatment center licensed under s. 394.875 or a  
2995 hospital licensed under chapter 395.

2996         2. "Least restrictive alternative" means the treatment and  
2997 conditions of treatment that, separately and in combination, are



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2998 no more intrusive or restrictive of freedom than reasonably  
2999 necessary to achieve a substantial therapeutic benefit or to  
3000 protect the child or adolescent or others from physical injury.

3001 3. "Suitable for residential treatment" or "suitability"  
3002 means a determination concerning a child or adolescent with an  
3003 emotional disturbance as defined in s. 394.492(5) or a serious  
3004 emotional disturbance as defined in s. 394.492(6) that each of  
3005 the following criteria is met:

3006 a. The child requires residential treatment.

3007 b. The child is in need of a residential treatment program  
3008 and is expected to benefit from mental health treatment.

3009 c. An appropriate, less restrictive alternative to  
3010 residential treatment is unavailable.

3011 (b) Whenever the department believes that a child in its  
3012 legal custody is emotionally disturbed and may need residential  
3013 treatment, an examination and suitability assessment must be  
3014 conducted by a qualified evaluator who is appointed by the  
3015 Agency for Health Care Administration. This suitability  
3016 assessment must be completed before the placement of the child  
3017 in a residential treatment center for emotionally disturbed  
3018 children and adolescents or a hospital. The qualified evaluator  
3019 must be a psychiatrist or a psychologist licensed in Florida who  
3020 has at least 3 years of experience in the diagnosis and  
3021 treatment of serious emotional disturbances in children and  
3022 adolescents and who has no actual or perceived conflict of  
3023 interest with any inpatient facility or residential treatment  
3024 center or program.

3025 (c) Before a child is admitted under this subsection, the  
3026 child shall be assessed for suitability for residential



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3027 treatment by a qualified evaluator who has conducted a personal  
3028 examination and assessment of the child and has made written  
3029 findings that:

3030 1. The child appears to have an emotional disturbance  
3031 serious enough to require residential treatment and is  
3032 reasonably likely to benefit from the treatment.

3033 2. The child has been provided with a clinically  
3034 appropriate explanation of the nature and purpose of the  
3035 treatment.

3036 3. All available modalities of treatment less restrictive  
3037 than residential treatment have been considered, and a less  
3038 restrictive alternative that would offer comparable benefits to  
3039 the child is unavailable.

3040  
3041 A copy of the written findings of the evaluation and suitability  
3042 assessment must be provided to the department, to the guardian  
3043 ad litem, and, if the child is a member of a Medicaid managed  
3044 care plan, to the plan that is financially responsible for the  
3045 child's care in residential treatment, all of whom must be  
3046 provided with the opportunity to discuss the findings with the  
3047 evaluator.

3048 (d) Immediately upon placing a child in a residential  
3049 treatment program under this section, the department must notify  
3050 the guardian ad litem and the court having jurisdiction over the  
3051 child and must provide the guardian ad litem and the court with  
3052 a copy of the assessment by the qualified evaluator.

3053 (e) Within 10 days after the admission of a child to a  
3054 residential treatment program, the director of the residential  
3055 treatment program or the director's designee must ensure that an



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3056 individualized plan of treatment has been prepared by the  
3057 program and has been explained to the child, to the department,  
3058 and to the guardian ad litem, and submitted to the department.  
3059 The child must be involved in the preparation of the plan to the  
3060 maximum feasible extent consistent with his or her ability to  
3061 understand and participate, and the guardian ad litem and the  
3062 child's foster parents must be involved to the maximum extent  
3063 consistent with the child's treatment needs. The plan must  
3064 include a preliminary plan for residential treatment and  
3065 aftercare upon completion of residential treatment. The plan  
3066 must include specific behavioral and emotional goals against  
3067 which the success of the residential treatment may be measured.  
3068 A copy of the plan must be provided to the child, to the  
3069 guardian ad litem, and to the department.

3070 (f) Within 30 days after admission, the residential  
3071 treatment program must review the appropriateness and  
3072 suitability of the child's placement in the program. The  
3073 residential treatment program must determine whether the child  
3074 is receiving benefit toward the treatment goals and whether the  
3075 child could be treated in a less restrictive treatment program.  
3076 The residential treatment program shall prepare a written report  
3077 of its findings and submit the report to the guardian ad litem  
3078 and to the department. The department must submit the report to  
3079 the court. The report must include a discharge plan for the  
3080 child. The residential treatment program must continue to  
3081 evaluate the child's treatment progress every 30 days thereafter  
3082 and must include its findings in a written report submitted to  
3083 the department. The department may not reimburse a facility  
3084 until the facility has submitted every written report that is



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3085 due.

3086 (g)1. The department must submit, at the beginning of each  
3087 month, to the court having jurisdiction over the child, a  
3088 written report regarding the child's progress toward achieving  
3089 the goals specified in the individualized plan of treatment.

3090 2. The court must conduct a hearing to review the status of  
3091 the child's residential treatment plan no later than 3 months  
3092 after the child's admission to the residential treatment  
3093 program. An independent review of the child's progress toward  
3094 achieving the goals and objectives of the treatment plan must be  
3095 completed by a qualified evaluator and submitted to the court  
3096 before its 3-month review.

3097 3. For any child in residential treatment at the time a  
3098 judicial review is held pursuant to s. 39.701, the child's  
3099 continued placement in residential treatment must be a subject  
3100 of the judicial review.

3101 4. If at any time the court determines that the child is  
3102 not suitable for continued residential treatment, the court  
3103 shall order the department to place the child in the least  
3104 restrictive setting that is best suited to meet his or her  
3105 needs.

3106 (h) After the initial 3-month review, the court must  
3107 conduct a review of the child's residential treatment plan every  
3108 90 days.

3109 (i) The department must adopt rules for implementing  
3110 timeframes for the completion of suitability assessments by  
3111 qualified evaluators and a procedure that includes timeframes  
3112 for completing the 3-month independent review by the qualified  
3113 evaluators of the child's progress toward achieving the goals



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3114 and objectives of the treatment plan which review must be  
3115 submitted to the court. The Agency for Health Care  
3116 Administration must adopt rules for the registration of  
3117 qualified evaluators, the procedure for selecting the evaluators  
3118 to conduct the reviews required under this section, and a  
3119 reasonable, cost-efficient fee schedule for qualified  
3120 evaluators.

3121 Section 35. Subsections (5) and (6) of section 394.492,  
3122 Florida Statutes, are amended to read:

3123 394.492 Definitions.—As used in ss. 394.490-394.497, the  
3124 term:

3125 (5) "Child or adolescent who has an emotional disturbance"  
3126 means a person under 18 years of age who is diagnosed with a  
3127 mental, emotional, or behavioral disorder of sufficient duration  
3128 to meet one of the diagnostic categories specified in the most  
3129 recent edition of the Diagnostic and Statistical Manual of the  
3130 American Psychiatric Association, but who does not exhibit  
3131 behaviors that substantially interfere with or limit his or her  
3132 role or ability to function in the family, school, or community.  
3133 The emotional disturbance must not be considered to be a  
3134 temporary response to a stressful situation. The term does not  
3135 include a child or adolescent who meets the criteria for  
3136 involuntary placement under s. 394.467(1).

3137 (6) "Child or adolescent who has a serious emotional  
3138 disturbance or mental illness" means a person under 18 years of  
3139 age who:

3140 (a) Is diagnosed as having a mental, emotional, or  
3141 behavioral disorder that meets one of the diagnostic categories  
3142 specified in the most recent edition of the Diagnostic and





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3143 Statistical Manual of Mental Disorders of the American  
3144 Psychiatric Association; and

3145 (b) Exhibits behaviors that substantially interfere with or  
3146 limit his or her role or ability to function in the family,  
3147 school, or community, which behaviors are not considered to be a  
3148 temporary response to a stressful situation.

3149  
3150 The term includes a child or adolescent who meets the criteria  
3151 for involuntary placement under s. 394.467(1).

3152 Section 36. Paragraphs (a) and (c) of subsection (3) of  
3153 section 394.495, Florida Statutes, are amended to read:

3154 394.495 Child and adolescent mental health system of care;  
3155 programs and services.—

3156 (3) Assessments must be performed by:

3157 (a) A professional as defined in s. 394.455(7), (33), (36),  
3158 or (37) 394.455(5), (7), (32), (35), or (36);

3159 (c) A person who is under the direct supervision of a  
3160 qualified professional as defined in s. 394.455(7), (33), (36),  
3161 or (37) 394.455(5), (7), (32), (35), or (36) or a professional  
3162 licensed under chapter 491.

3163 Section 37. Subsection (5) of section 394.496, Florida  
3164 Statutes, is amended to read:

3165 394.496 Service planning.—

3166 (5) A professional as defined in s. 394.455(7), (33), (36),  
3167 or (37) 394.455(5), (7), (32), (35), or (36) or a professional

3168 licensed under chapter 491 must be included among those persons  
3169 developing the services plan.

3170 Section 38. Subsection (6) of section 394.9085, Florida  
3171 Statutes, is amended to read:



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3172 394.9085 Behavioral provider liability.—

3173 (6) For purposes of this section, the terms "detoxification  
3174 services," "addictions receiving facility," and "receiving  
3175 facility" have the same meanings as those provided in ss.  
3176 397.311(25)(a)4., 397.311(25)(a)1., and 394.455(41) ~~394.455(39)~~,  
3177 respectively.

3178 Section 39. Paragraph (b) of subsection (1) of section  
3179 409.972, Florida Statutes, is amended to read:

3180 409.972 Mandatory and voluntary enrollment.—

3181 (1) The following Medicaid-eligible persons are exempt from  
3182 mandatory managed care enrollment required by s. 409.965, and  
3183 may voluntarily choose to participate in the managed medical  
3184 assistance program:

3185 (b) Medicaid recipients residing in residential commitment  
3186 facilities operated through the Department of Juvenile Justice  
3187 or a treatment facility as defined in s. 394.455(51)  
3188 ~~394.455(47)~~.

3189 Section 40. Subsection (7) of section 744.2007, Florida  
3190 Statutes, is amended to read:

3191 744.2007 Powers and duties.—

3192 (7) A public guardian may not commit a ward to a treatment  
3193 facility, as defined in s. 394.455(51) ~~394.455(47)~~, without an  
3194 involuntary placement proceeding as provided by law.

3195 Section 41. Paragraph (a) of subsection (2) of section  
3196 790.065, Florida Statutes, is amended to read:

3197 790.065 Sale and delivery of firearms.—

3198 (2) Upon receipt of a request for a criminal history record  
3199 check, the Department of Law Enforcement shall, during the  
3200 licensee's call or by return call, forthwith:



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3201           (a) Review any records available to determine if the  
3202 potential buyer or transferee:  
3203           1. Has been convicted of a felony and is prohibited from  
3204 receipt or possession of a firearm pursuant to s. 790.23;  
3205           2. Has been convicted of a misdemeanor crime of domestic  
3206 violence, and therefore is prohibited from purchasing a firearm;  
3207           3. Has had adjudication of guilt withheld or imposition of  
3208 sentence suspended on any felony or misdemeanor crime of  
3209 domestic violence unless 3 years have elapsed since probation or  
3210 any other conditions set by the court have been fulfilled or  
3211 expunction has occurred; or  
3212           4. Has been adjudicated mentally defective or has been  
3213 committed to a mental institution by a court or as provided in  
3214 sub-sub-subparagraph b.(II), and as a result is prohibited by  
3215 state or federal law from purchasing a firearm.  
3216           a. As used in this subparagraph, "adjudicated mentally  
3217 defective" means a determination by a court that a person, as a  
3218 result of marked subnormal intelligence, or mental illness,  
3219 incompetency, condition, or disease, is a danger to himself or  
3220 herself or to others or lacks the mental capacity to contract or  
3221 manage his or her own affairs. The phrase includes a judicial  
3222 finding of incapacity under s. 744.331(6)(a), an acquittal by  
3223 reason of insanity of a person charged with a criminal offense,  
3224 and a judicial finding that a criminal defendant is not  
3225 competent to stand trial.  
3226           b. As used in this subparagraph, "committed to a mental  
3227 institution" means:  
3228           (I) Involuntary commitment, commitment for mental  
3229 defectiveness or mental illness, and commitment for substance



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3230 abuse. The phrase includes involuntary services ~~inpatient~~  
3231 ~~placement~~ as defined in s. 394.467, ~~involuntary outpatient~~  
3232 ~~placement as defined in s. 394.4655~~, involuntary assessment and  
3233 stabilization under s. 397.6818, and involuntary substance abuse  
3234 treatment under s. 397.6957, but does not include a person in a  
3235 mental institution for observation or discharged from a mental  
3236 institution based upon the initial review by the physician or a  
3237 voluntary admission to a mental institution; or

3238 (II) Notwithstanding sub-sub-subparagraph (I), voluntary  
3239 admission to a mental institution for outpatient or inpatient  
3240 treatment of a person who had an involuntary examination under  
3241 s. 394.463, where each of the following conditions have been  
3242 met:

3243 (A) An examining physician found that the person is an  
3244 imminent danger to himself or herself or others.

3245 (B) The examining physician certified that if the person  
3246 did not agree to voluntary treatment, a petition for involuntary  
3247 outpatient or inpatient treatment would have been filed under s.  
3248 394.463(2)(f)3. ~~394.463(2)(i)4.~~, or the examining physician  
3249 certified that a petition was filed and the person subsequently  
3250 agreed to voluntary treatment prior to a court hearing on the  
3251 petition.

3252 (C) Before agreeing to voluntary treatment, the person  
3253 received written notice of that finding and certification, and  
3254 written notice that as a result of such finding, he or she may  
3255 be prohibited from purchasing a firearm, and may not be eligible  
3256 to apply for or retain a concealed weapon or firearms license  
3257 under s. 790.06 and the person acknowledged such notice in  
3258 writing, in substantially the following form:



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3259 "I understand that the doctor who examined me believes I am a  
3260 danger to myself or to others. I understand that if I do not  
3261 agree to voluntary treatment, a petition will be filed in court  
3262 to require me to receive involuntary treatment. I understand  
3263 that if that petition is filed, I have the right to contest it.  
3264 In the event a petition has been filed, I understand that I can  
3265 subsequently agree to voluntary treatment prior to a court  
3266 hearing. I understand that by agreeing to voluntary treatment in  
3267 either of these situations, I may be prohibited from buying  
3268 firearms and from applying for or retaining a concealed weapons  
3269 or firearms license until I apply for and receive relief from  
3270 that restriction under Florida law."

3271 (D) A judge or a magistrate has, pursuant to sub-sub-  
3272 subparagraph c.(II), reviewed the record of the finding,  
3273 certification, notice, and written acknowledgment classifying  
3274 the person as an imminent danger to himself or herself or  
3275 others, and ordered that such record be submitted to the  
3276 department.

3277 c. In order to check for these conditions, the department  
3278 shall compile and maintain an automated database of persons who  
3279 are prohibited from purchasing a firearm based on court records  
3280 of adjudications of mental defectiveness or commitments to  
3281 mental institutions.

3282 (I) Except as provided in sub-sub-subparagraph (II), clerks  
3283 of court shall submit these records to the department within 1  
3284 month after the rendition of the adjudication or commitment.  
3285 Reports shall be submitted in an automated format. The reports  
3286 must, at a minimum, include the name, along with any known alias  
3287 or former name, the sex, and the date of birth of the subject.



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3288 (II) For persons committed to a mental institution pursuant  
3289 to sub-sub-subparagraph b.(II), within 24 hours after the  
3290 person's agreement to voluntary admission, a record of the  
3291 finding, certification, notice, and written acknowledgment must  
3292 be filed by the administrator of the receiving or treatment  
3293 facility, as defined in s. 394.455, with the clerk of the court  
3294 for the county in which the involuntary examination under s.  
3295 394.463 occurred. No fee shall be charged for the filing under  
3296 this sub-sub-subparagraph. The clerk must present the records to  
3297 a judge or magistrate within 24 hours after receipt of the  
3298 records. A judge or magistrate is required and has the lawful  
3299 authority to review the records ex parte and, if the judge or  
3300 magistrate determines that the record supports the classifying  
3301 of the person as an imminent danger to himself or herself or  
3302 others, to order that the record be submitted to the department.  
3303 If a judge or magistrate orders the submittal of the record to  
3304 the department, the record must be submitted to the department  
3305 within 24 hours.

3306 d. A person who has been adjudicated mentally defective or  
3307 committed to a mental institution, as those terms are defined in  
3308 this paragraph, may petition the court that made the  
3309 adjudication or commitment, or the court that ordered that the  
3310 record be submitted to the department pursuant to sub-sub-  
3311 subparagraph c.(II), for relief from the firearm disabilities  
3312 imposed by such adjudication or commitment. A copy of the  
3313 petition shall be served on the state attorney for the county in  
3314 which the person was adjudicated or committed. The state  
3315 attorney may object to and present evidence relevant to the  
3316 relief sought by the petition. The hearing on the petition may



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3317 be open or closed as the petitioner may choose. The petitioner  
3318 may present evidence and subpoena witnesses to appear at the  
3319 hearing on the petition. The petitioner may confront and cross-  
3320 examine witnesses called by the state attorney. A record of the  
3321 hearing shall be made by a certified court reporter or by court-  
3322 approved electronic means. The court shall make written findings  
3323 of fact and conclusions of law on the issues before it and issue  
3324 a final order. The court shall grant the relief requested in the  
3325 petition if the court finds, based on the evidence presented  
3326 with respect to the petitioner's reputation, the petitioner's  
3327 mental health record and, if applicable, criminal history  
3328 record, the circumstances surrounding the firearm disability,  
3329 and any other evidence in the record, that the petitioner will  
3330 not be likely to act in a manner that is dangerous to public  
3331 safety and that granting the relief would not be contrary to the  
3332 public interest. If the final order denies relief, the  
3333 petitioner may not petition again for relief from firearm  
3334 disabilities until 1 year after the date of the final order. The  
3335 petitioner may seek judicial review of a final order denying  
3336 relief in the district court of appeal having jurisdiction over  
3337 the court that issued the order. The review shall be conducted  
3338 de novo. Relief from a firearm disability granted under this  
3339 sub-subparagraph has no effect on the loss of civil rights,  
3340 including firearm rights, for any reason other than the  
3341 particular adjudication of mental defectiveness or commitment to  
3342 a mental institution from which relief is granted.

3343 e. Upon receipt of proper notice of relief from firearm  
3344 disabilities granted under sub-subparagraph d., the department  
3345 shall delete any mental health record of the person granted



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3346 relief from the automated database of persons who are prohibited  
3347 from purchasing a firearm based on court records of  
3348 adjudications of mental defectiveness or commitments to mental  
3349 institutions.

3350 f. The department is authorized to disclose data collected  
3351 pursuant to this subparagraph to agencies of the Federal  
3352 Government and other states for use exclusively in determining  
3353 the lawfulness of a firearm sale or transfer. The department is  
3354 also authorized to disclose this data to the Department of  
3355 Agriculture and Consumer Services for purposes of determining  
3356 eligibility for issuance of a concealed weapons or concealed  
3357 firearms license and for determining whether a basis exists for  
3358 revoking or suspending a previously issued license pursuant to  
3359 s. 790.06(10). When a potential buyer or transferee appeals a  
3360 nonapproval based on these records, the clerks of court and  
3361 mental institutions shall, upon request by the department,  
3362 provide information to help determine whether the potential  
3363 buyer or transferee is the same person as the subject of the  
3364 record. Photographs and any other data that could confirm or  
3365 negate identity must be made available to the department for  
3366 such purposes, notwithstanding any other provision of state law  
3367 to the contrary. Any such information that is made confidential  
3368 or exempt from disclosure by law shall retain such confidential  
3369 or exempt status when transferred to the department.

3370 Section 42. Subsection (1) of section 945.46, Florida  
3371 Statutes, is amended to read:

3372 945.46 Initiation of involuntary placement proceedings with  
3373 respect to a mentally ill inmate scheduled for release.—

3374 (1) If an inmate who is receiving mental health treatment





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3375 in the department is scheduled for release through expiration of  
3376 sentence or any other means, but continues to be mentally ill  
3377 and in need of care and treatment, as defined in s. 945.42, the  
3378 warden is authorized to initiate procedures for involuntary  
3379 placement pursuant to s. 394.467, 60 days prior to such release.

3380 Section 43. This act shall take effect July 1, 2017.

3381  
3382 ===== T I T L E A M E N D M E N T =====

3383 And the title is amended as follows:

3384 Delete everything before the enacting clause  
3385 and insert:

3386 A bill to be entitled  
3387 An act relating to examination and treatment of  
3388 individuals with mental illness; amending s. 394.453,  
3389 F.S.; revising legislative intent; amending s.  
3390 394.455, F.S.; providing, revising, and deleting  
3391 definitions; amending s. 394.457, F.S.; providing  
3392 responsibilities of the Department of Children and  
3393 Families for a comprehensive statewide mental health  
3394 and substance abuse program; amending s. 394.4573,  
3395 F.S.; conforming terminology; amending s. 394.4574,  
3396 F.S.; providing for additional professionals to assess  
3397 a resident with a mental illness who resides in an  
3398 assisted living facility; amending s. 394.458, F.S.;  
3399 prohibiting the introduction or removal of certain  
3400 articles at a facility providing mental health  
3401 services; requiring such facilities to post a notice  
3402 thereof; amending s. 394.459, F.S.; revising rights of  
3403 individuals receiving mental health treatment and



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3404 services to provide for the use of health care  
3405 surrogates or proxies to make decisions; revising  
3406 requirements relating to express and informed consent  
3407 and liability for violations; requiring service  
3408 providers to provide information concerning advance  
3409 directives; amending s. 394.4593, F.S.; expanding the  
3410 definition of the term "employee" to include staff,  
3411 volunteers, and interns employed by a service provider  
3412 for purposes of reporting sexual misconduct; repealing  
3413 s. 394.4595, F.S., relating to the Florida statewide  
3414 and local advocacy councils and access to patients and  
3415 records; creating s. 394.4596, F.S.; requiring  
3416 designated receiving facilities to permit access  
3417 authority to an agency designated by the Governor to  
3418 serve as the federally mandated protection and  
3419 advocacy system for individuals with disabilities;  
3420 amending s. 394.4597, F.S.; providing rights and  
3421 responsibilities of the representative of an  
3422 individual admitted to a facility for involuntary  
3423 examination or services; amending s. 394.4598, F.S.;  
3424 specifying certain persons who are prohibited from  
3425 being appointed as a guardian advocate; providing  
3426 duties of a guardian advocate; amending s. 394.4599,  
3427 F.S.; revising requirements for a certain notice  
3428 related to involuntary admission; repealing s.  
3429 394.460, F.S., relating to rights of professionals;  
3430 amending s. 394.461, F.S.; authorizing governmental  
3431 facilities to provide voluntary and involuntary mental  
3432 health and substance abuse examinations and treatment



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3433 under certain conditions; providing additional  
3434 facility reporting requirements; amending s. 394.4615,  
3435 F.S., relating to confidentiality of clinical records;  
3436 providing additional circumstances in which  
3437 information from a clinical record may be released;  
3438 amending s. 394.462, F.S.; revising requirements for  
3439 transportation to receiving facilities and treatment  
3440 facilities; providing for a law enforcement officer to  
3441 transport an individual to a United States Department  
3442 of Veterans Affairs facility under certain  
3443 circumstances; providing immunity from liability;  
3444 deleting obsolete provisions; amending s. 394.4625,  
3445 F.S.; revising criteria for voluntary admission to,  
3446 and release or discharge from, a facility for  
3447 examination and treatment; revising criteria for a  
3448 determination of neglect to include mental and  
3449 physical harm; requiring certain individuals charged  
3450 with a crime to be discharged to the custody of a law  
3451 enforcement officer under certain circumstances;  
3452 amending s. 394.463, F.S.; requiring certain persons  
3453 initiating an involuntary examination to provide  
3454 notice to the individual's guardian, representative,  
3455 or health care surrogate or proxy; revising a holding  
3456 period for involuntary examination; amending s.  
3457 394.467, F.S.; revising provisions relating to  
3458 admission to a facility for involuntary services;  
3459 authorizing the state attorney to represent the state  
3460 in certain proceedings relating to a petition for  
3461 involuntary services; granting the state attorney



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3462 access to certain clinical records and witnesses;  
3463 providing conditions for a continuance of the hearing;  
3464 requiring the Division of Administrative Hearings to  
3465 advise certain parties representing the individual of  
3466 the right to an independent examination in continued  
3467 involuntary services proceedings; amending s.  
3468 394.46715, F.S.; providing purpose of department  
3469 rules; amending s. 394.4672, F.S.; authorizing  
3470 facilities of the United States Department of Veterans  
3471 Affairs to provide certain mental health services;  
3472 amending s. 394.4685, F.S.; revising provisions  
3473 governing transfer of individuals between and among  
3474 public and private facilities; amending s. 394.469,  
3475 F.S.; authorizing the discharge of an individual from  
3476 involuntary services into the custody of a law  
3477 enforcement officer under certain conditions; amending  
3478 s. 394.473, F.S.; revising provisions relating to  
3479 compensation of attorneys and expert witnesses in  
3480 cases involving indigent individuals; amending s.  
3481 394.475, F.S.; conforming terminology; amending s.  
3482 394.4785, F.S.; defining the term "minor" for purposes  
3483 of admission into a mental health facility; repealing  
3484 s. 394.4595, F.S., relating to access to patients and  
3485 patients' records by members of the Florida statewide  
3486 and local advocacy councils; repealing s. 394.460,  
3487 F.S., relating to the rights of professionals;  
3488 repealing s. 394.4655, F.S., relating to involuntary  
3489 outpatient services; repealing s. 394.4786, F.S.,  
3490 relating to legislative intent; repealing s.



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3491 394.47865, F.S., relating to the privatization of  
3492 South Florida State Hospital; repealing s. 394.4787,  
3493 F.S., relating to definitions; repealing s. 394.4788,  
3494 F.S., relating to use of certain PMATF funds for the  
3495 purchase of acute care mental health services;  
3496 repealing s. 394.4789, F.S., relating to the  
3497 establishment of a referral process and eligibility  
3498 determination; amending ss. 20.425, 39.407, 394.4599,  
3499 394.492, 394.495, 394.496, 394.9082, 394.9085,  
3500 409.972, 744.2007, 790.065, and 945.46, F.S.;  
3501 conforming references and cross-references; providing  
3502 an effective date.

By Senator Garcia

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1 A bill to be entitled  
 2 An act relating to examination and treatment of  
 3 individuals with mental illness; amending s. 394.453,  
 4 F.S.; revising legislative intent; amending s.  
 5 394.455, F.S.; providing, revising, and deleting  
 6 definitions; amending s. 394.457, F.S.; providing  
 7 responsibilities of the Department of Children and  
 8 Families for a comprehensive statewide mental health  
 9 and substance abuse program; amending s. 394.4573,  
 10 F.S.; conforming terminology; amending s. 394.4574,  
 11 F.S.; providing for additional professionals to assess  
 12 a resident with a mental illness who resides in an  
 13 assisted living facility; amending s. 394.458, F.S.;  
 14 prohibiting the introduction or removal of certain  
 15 articles at a facility providing mental health  
 16 services; requiring such facilities to post a notice  
 17 thereof; amending s. 394.459, F.S.; revising rights of  
 18 individuals receiving mental health treatment and  
 19 services to provide for the use of health care  
 20 surrogates or proxies to make decisions; revising  
 21 requirements relating to express and informed consent  
 22 and liability for violations; requiring service  
 23 providers to provide information concerning advance  
 24 directives; amending s. 394.4593, F.S.; expanding the  
 25 definition of the term "employee" to include staff,  
 26 volunteers, and interns employed by a service provider  
 27 for purposes of reporting sexual misconduct; repealing  
 28 s. 394.4595, F.S., relating to the Florida statewide  
 29 and local advocacy councils and access to patients and

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30 records; creating s. 394.4596, F.S.; requiring  
 31 designated receiving facilities to permit access  
 32 authority to an agency designated by the Governor to  
 33 serve as the federally mandated protection and  
 34 advocacy system for individuals with disabilities;  
 35 amending s. 394.4597, F.S.; providing rights and  
 36 responsibilities of the representative of an  
 37 individual admitted to a facility for involuntary  
 38 examination or services; amending s. 394.4598, F.S.;  
 39 specifying certain persons who are prohibited from  
 40 being appointed as a guardian advocate; providing  
 41 duties of a guardian advocate; amending s. 394.4599,  
 42 F.S.; revising requirements for a certain notice  
 43 related to involuntary admission; repealing s.  
 44 394.460, F.S., relating to rights of professionals;  
 45 amending s. 394.461, F.S.; authorizing governmental  
 46 facilities to provide voluntary and involuntary mental  
 47 health and substance abuse examinations and treatment  
 48 under certain conditions; providing additional  
 49 facility reporting requirements; amending s. 394.4615,  
 50 F.S., relating to confidentiality of clinical records;  
 51 providing additional circumstances in which  
 52 information from a clinical record may be released;  
 53 amending s. 394.462, F.S.; revising requirements for  
 54 transportation to receiving facilities and treatment  
 55 facilities; providing for a law enforcement officer to  
 56 transport an individual to a United States Department  
 57 of Veterans Affairs facility under certain  
 58 circumstances; providing immunity from liability;

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59 deleting obsolete provisions; amending s. 394.4625,  
 60 F.S.; revising criteria for voluntary admission to,  
 61 and release or discharge from, a facility for  
 62 examination and treatment; revising criteria for a  
 63 determination of neglect to include mental and  
 64 physical harm; requiring certain individuals charged  
 65 with a crime to be discharged to the custody of a law  
 66 enforcement officer under certain circumstances;  
 67 amending s. 394.463, F.S.; requiring certain persons  
 68 initiating an involuntary examination to provide  
 69 notice to the individual's guardian, representative,  
 70 or health care surrogate or proxy; revising a holding  
 71 period for involuntary examination; amending s.  
 72 394.467, F.S.; revising provisions relating to  
 73 admission to a facility for involuntary services;  
 74 authorizing the state attorney to represent the state  
 75 in certain proceedings relating to a petition for  
 76 involuntary services; granting the state attorney  
 77 access to certain clinical records and witnesses;  
 78 providing conditions for a continuance of the hearing;  
 79 requiring the Division of Administrative Hearings to  
 80 advise certain parties representing the individual of  
 81 the right to an independent examination in continued  
 82 involuntary services proceedings; amending s.  
 83 394.46715, F.S.; providing purpose of department  
 84 rules; amending s. 394.4672, F.S.; authorizing  
 85 facilities of the United States Department of Veterans  
 86 Affairs to provide certain mental health services;  
 87 amending s. 394.4685, F.S.; revising provisions

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88 governing transfer of individuals between and among  
 89 public and private facilities; amending s. 394.469,  
 90 F.S.; authorizing the discharge of an individual from  
 91 involuntary services into the custody of a law  
 92 enforcement officer under certain conditions; amending  
 93 s. 394.473, F.S.; revising provisions relating to  
 94 compensation of attorneys and expert witnesses in  
 95 cases involving indigent individuals; amending s.  
 96 394.475, F.S.; conforming terminology; amending s.  
 97 394.4785, F.S.; defining the term "minor" for purposes  
 98 of admission into a mental health facility; repealing  
 99 s. 394.4595, F.S., relating to access to patients and  
 100 patients' records by members of the Florida statewide  
 101 and local advocacy councils; repealing s. 394.460,  
 102 F.S., relating to the rights of professionals;  
 103 repealing s. 394.4655, F.S., relating to involuntary  
 104 outpatient services; repealing s. 394.4786, F.S.,  
 105 relating to legislative intent; repealing s.  
 106 394.47865, F.S., relating to the privatization of  
 107 South Florida State Hospital; repealing s. 394.4787,  
 108 F.S., relating to definitions; repealing s. 394.4788,  
 109 F.S., relating to use of certain PMATF funds for the  
 110 purchase of acute care mental health services;  
 111 repealing s. 394.4789, F.S., relating to the  
 112 establishment of a referral process and eligibility  
 113 determination; amending ss. 20.425, 39.407, 394.4599,  
 114 394.492, 394.495, 394.496, 394.9082, 394.9085,  
 115 409.972, 744.2007, 790.065, and 945.46, F.S.;  
 116 conforming references and cross-references; providing

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117 an effective date.

118

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

120

121 Section 1. Section 394.453, Florida Statutes, is amended to  
122 read:

123 394.453 Legislative intent.—

124 (1) It is the intent of the Legislature:

125 (a) To authorize and direct the Department of Children and  
126 Families to evaluate, research, plan, and recommend to the  
127 Governor and the Legislature programs designed to reduce the  
128 occurrence, severity, duration, and disabling aspects of mental,  
129 emotional, and behavioral disorders and substance abuse  
130 impairment.

131 (b) That treatment programs for such disorders include, ~~but~~  
132 ~~not be limited to,~~ comprehensive health, social, educational,  
133 and rehabilitative services for individuals ~~to persons~~ requiring  
134 intensive short-term and continued treatment in order to  
135 encourage them to assume responsibility for their treatment and  
136 recovery. It is intended that:

137 1. Such individuals ~~persons~~ be provided with emergency  
138 service and temporary detention for evaluation ~~if when~~ required;

139 2. Such individuals ~~persons~~ be admitted to treatment  
140 facilities ~~if on a voluntary basis when~~ extended or continuing  
141 care is needed and unavailable in the community;

142 3. Involuntary services placement be provided only ~~if when~~  
143 expert evaluation determines it is necessary;

144 4. Any involuntary treatment or examination be accomplished  
145 in a setting that is clinically appropriate and most likely to

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146 facilitate the individual's discharge ~~person's return to the~~  
147 ~~community~~ as soon as possible; and

148 5. ~~Individual~~ Dignity and human rights be guaranteed to all  
149 individuals ~~persons~~ who are admitted to mental health facilities  
150 ~~or who are being held under s. 394.463.~~

151 (c) That services provided to individuals ~~persons~~ in this  
152 state use the coordination-of-care principles characteristic of  
153 recovery-oriented services and include social support services,  
154 such as housing support, life skills and vocational training,  
155 and employment assistance, necessary for individuals ~~persons~~  
156 with mental health disorders and co-occurring mental health and  
157 substance use disorders to live successfully in their  
158 communities.

159 (d) That licensed, qualified health professionals be  
160 authorized to practice to the fullest extent of their education  
161 and training in the performance of professional functions  
162 necessary to carry out the intent of this part.

163 (2) It is the policy of this state that the use of  
164 restraint and seclusion ~~on clients~~ is justified only as an  
165 emergency safety measure to be used in response to imminent  
166 danger to the individual ~~client~~ or others. It is, therefore, the  
167 intent of the Legislature to achieve an ongoing reduction in the  
168 use of restraint and seclusion in programs and facilities  
169 serving individuals ~~experiencing persons with~~ mental illness.

170 (3) The Legislature further finds the need for additional  
171 psychiatrists to be of critical state concern and recommends the  
172 establishment of an additional psychiatry program to be offered  
173 by one of Florida's schools of medicine currently not offering  
174 psychiatry. The program shall seek to integrate primary care and



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175 psychiatry and other evolving models of care for individuals  
 176 ~~persons~~ with mental health and substance use disorders.  
 177 Additionally, the Legislature finds that the use of telemedicine  
 178 for patient evaluation, case management, and ongoing care will  
 179 improve management of patient care and reduce costs of  
 180 transportation.

181 Section 2. Section 394.455, Florida Statutes, is amended to  
 182 read:

183 394.455 Definitions.—As used in this part, the term:

184 (1) "Access center" means a facility that has medical,  
 185 mental health, and substance abuse professionals to provide  
 186 emergency screening and evaluation for mental health or  
 187 substance abuse disorders and may provide transportation to an  
 188 appropriate facility if an individual is in need of more  
 189 intensive services.

190 (2) "Addictions receiving facility" is a secure, acute care  
 191 facility that, at a minimum, provides emergency screening,  
 192 evaluation, detoxification, and stabilization services; is  
 193 operated 24 hours per day, 7 days per week; and is designated by  
 194 the department to serve individuals found to have substance  
 195 abuse impairment who qualify for services under this part.

196 (3) "Administrator" means the chief administrative officer  
 197 of a receiving or treatment facility or his or her designee.

198 (4) "Adult" means an individual who is 18 years of age or  
 199 older or who has had the disability of nonage removed under  
 200 chapter 743.

201 (5) "Advance directive" has the same meaning as in s.  
 202 765.101.

203 ~~(5) "Clinical psychologist" means a psychologist as defined~~

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204 ~~in s. 490.003(7) with 3 years of postdoctoral experience in the~~  
 205 ~~practice of clinical psychology, inclusive of the experience~~  
 206 ~~required for licensure, or a psychologist employed by a facility~~  
 207 ~~operated by the United States Department of Veterans Affairs~~  
 208 ~~that qualifies as a receiving or treatment facility under this~~  
 209 ~~part.~~

210 (6) "Clinical record" means all parts of the record  
 211 required to be maintained and includes all medical records,  
 212 progress notes, charts, and admission and discharge data, and  
 213 all other information recorded by facility staff which pertains  
 214 to an individual's admission, retention the patient's  
 215 hospitalization, or treatment at a mental facility.

216 (7) "Clinical social worker" means a person licensed to  
 217 practice social work under s. 491.005 or s. 491.006 or a person  
 218 employed as a clinical social worker by the United States  
 219 Department of Veterans Affairs or the United States Department  
 220 of Defense as a clinical social worker under s. 491.005 or s.  
 221 491.006.

222 (8) "Community facility" means a community service provider  
 223 that contracts with the department to furnish substance abuse or  
 224 mental health services under part IV of this chapter.

225 (9) "Community mental health center or clinic" means a  
 226 publicly funded, not-for-profit center that contracts with the  
 227 department for the provision of inpatient, outpatient, day  
 228 treatment, or emergency services.

229 (10) "Court," unless otherwise specified, means the circuit  
 230 court.

231 (11) "Department" means the Department of Children and  
 232 Families.

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233 (12) "Designated receiving facility" means a facility  
 234 approved by the department which may be a public or private  
 235 hospital, crisis stabilization unit, or addictions receiving  
 236 facility; which provides, at a minimum, emergency screening,  
 237 evaluation, and short-term stabilization for mental health or  
 238 substance abuse disorders; and which may have an agreement with  
 239 a corresponding facility for transportation and services.

240 (13) "Detoxification facility" means a facility licensed to  
 241 provide detoxification services under chapter 397.

242 (14) "Electronic means" means a form of telecommunication  
 243 which requires all parties to maintain visual as well as audio  
 244 communication when being used to conduct an examination by a  
 245 qualified professional.

246 (15) "Express and informed consent" means consent  
 247 voluntarily given ~~in writing, by a competent person,~~ after  
 248 sufficient explanation and disclosure of the subject matter  
 249 involved, as documented in the clinical record, to enable the  
 250 individual or his or her guardian, guardian advocate, or health  
 251 care surrogate or proxy person to make a knowing and willful  
 252 decision without any element of force, fraud, deceit, duress, or  
 253 other form of constraint or coercion. Such consent must be in  
 254 writing when provided by the individual, but may be provided  
 255 verbally and documented in the clinical record when the  
 256 individual's substitute decisionmaker is unable to reasonably  
 257 provide it in writing.

258 (16) "Facility" means any hospital, community facility,  
 259 public or private facility, or receiving or treatment facility  
 260 providing for the evaluation, diagnosis, care, treatment,  
 261 training, or hospitalization of individuals ~~persons who appear~~

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262 ~~to have or~~ who have been diagnosed as having a mental illness or  
 263 substance abuse impairment. The term does not include a program  
 264 or an entity licensed under chapter 400 or chapter 429.

265 (17) "Government facility" means a facility owned,  
 266 operated, or administered by the Department of Corrections or  
 267 the United States Department of Veterans Affairs.

268 (18)~~(17)~~ "Guardian" means the natural guardian of a minor,  
 269 or a person appointed by a court to act on behalf of a ward's  
 270 person if the ward is a minor or has been adjudicated  
 271 incapacitated.

272 (19)~~(18)~~ "Guardian advocate" means a person appointed by a  
 273 court to make decisions regarding mental health treatment on  
 274 behalf of an individual ~~a patient~~ who has been found incompetent  
 275 to consent to treatment pursuant to this part.

276 (20)~~(19)~~ "Hospital" means a hospital licensed under chapter  
 277 395 and part II of chapter 408.

278 (21)~~(20)~~ "Incapacitated" means that an individual ~~a person~~  
 279 has been adjudicated incapacitated pursuant to part V of chapter  
 280 744 and a guardian of the individual ~~person~~ has been appointed.

281 (22)~~(21)~~ "Incompetent to consent to treatment" means that  
 282 an individual's ~~a state in which a person's~~ judgment is so  
 283 affected by a mental illness or a substance abuse impairment or  
 284 any medical or organic cause that he or she lacks the capacity  
 285 to make a well-reasoned, willful, and knowing decision  
 286 concerning his or her medical, mental health, or substance abuse  
 287 treatment.

288 (23) "Individual" means any person who is held or accepted  
 289 for a mental health examination or treatment.

290 (24)~~(22)~~ "Involuntary examination" means an examination

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291 performed under s. 394.463, ~~s. 397.6772, s. 397.679, s.~~  
 292 ~~397.6798, or s. 397.6811~~ to determine if an individual ~~whether a~~  
 293 ~~person~~ qualifies for involuntary services.

294 ~~(25)-(23)~~ "Involuntary services" means court-ordered  
 295 outpatient services or ~~inpatient placement for mental health~~  
 296 treatment for mental illness in a receiving facility or  
 297 treatment facility or by a service provider pursuant to ~~s.~~  
 298 ~~394.4655 or~~ s. 394.467.

299 ~~(26)-(24)~~ "Law enforcement officer" has the same meaning as  
 300 provided in s. 943.10 or a federal or tribal law enforcement  
 301 officer as defined by federal law.

302 ~~(27)-(25)~~ "Marriage and family therapist" means a person  
 303 licensed to practice marriage and family therapy under s.  
 304 491.005 or s. 491.006 or a person employed as a marriage and  
 305 family therapist by the United States Department of Veterans  
 306 Affairs or the United States Department of Defense.

307 ~~(28)-(26)~~ "Mental health counselor" means a person licensed  
 308 to practice mental health counseling under s. 491.005 or s.  
 309 491.006 or a person employed as a mental health counselor by the  
 310 United States Department of Veterans Affairs or the United  
 311 States Department of Defense.

312 ~~(29)-(27)~~ "Mental health overlay program" means a mobile  
 313 service that provides an independent examination for voluntary  
 314 admission and a range of supplemental onsite services to an  
 315 individual who has ~~persons with~~ a mental illness in a  
 316 residential setting such as a nursing home, an assisted living  
 317 facility, or an adult family-care home or a nonresidential  
 318 setting such as an adult day care center. Independent  
 319 examinations provided through a mental health overlay program

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320 must ~~only~~ be provided only under contract with the department  
 321 for this service or be attached to a public receiving facility  
 322 that is also a community mental health center.

323 ~~(30)-(28)~~ "Mental illness" means an impairment of the mental  
 324 or emotional processes that exercise conscious control of one's  
 325 actions or of the ability to perceive or understand reality,  
 326 which impairment substantially interferes with the individual's  
 327 person's ability to meet the ordinary demands of living. As used  
 328 in ~~For the purposes of~~ this part, the term does not include a  
 329 developmental disability as defined in chapter 393,  
 330 intoxication, or conditions manifested only by antisocial  
 331 behavior or substance abuse impairment.

332 ~~(31)-(29)~~ "Minor" means an individual who is 17 years of age  
 333 or younger and who has not had the disability of nonage removed  
 334 pursuant to s. 743.01 or s. 743.015.

335 ~~(32)-(30)~~ "Mobile crisis response service" means a  
 336 nonresidential crisis service available 24 hours per day, 7 days  
 337 per week which provides immediate intensive assessments and  
 338 interventions, including screening for admission into a mental  
 339 health receiving facility, an addictions receiving facility, or  
 340 a detoxification facility, for the purpose of identifying  
 341 appropriate treatment services.

342 ~~(31)~~ "Patient" means ~~any person, with or without a co-~~  
 343 ~~occurring substance abuse disorder, who is held or accepted for~~  
 344 ~~mental health treatment.~~

345 ~~(33)-(32)~~ "Physician" means a medical practitioner licensed  
 346 under chapter 458 or chapter 459 ~~who has experience in the~~  
 347 ~~diagnosis and treatment of mental illness~~ or a physician  
 348 employed by ~~a facility operated by~~ the United States Department

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349 of Veterans Affairs or the United States Department of Defense.

350 (34)-(33) "Physician assistant" means a person fully

351 licensed as a physician assistant under chapter 458 or chapter

352 459 or a person employed as a physician assistant by the United

353 States Department of Veterans Affairs or the United States

354 Department of Defense who has experience in the diagnosis and

355 treatment of mental disorders.

356 (35)-(34) "Private facility" means a hospital or facility

357 operated by a for-profit or not-for-profit corporation or

358 association which provides mental health or substance abuse

359 services and is not a public facility.

360 (36)-(35) "Psychiatric nurse" means an advanced registered

361 nurse practitioner certified under s. 464.012 who ~~has a master's~~

362 ~~or doctoral degree in psychiatric nursing~~, holds a national

363 advanced practice certification as a psychiatric mental health

364 advanced practice nurse, and has 2 years of post-master's

365 clinical experience under the supervision of a physician or a

366 person employed as a psychiatric nurse by the United States

367 Department of Veterans Affairs or the United States Department

368 of Defense.

369 (37)-(36) "Psychiatrist" means a medical practitioner

370 licensed under chapter 458 or chapter 459 for at least 3 years,

371 inclusive of psychiatric residency or a person employed as a

372 psychiatrist by the United States Department of Veterans Affairs

373 or the United States Department of Defense.

374 (38) "Psychologist" means a person defined as a

375 psychologist under s. 490.003 or a person employed as a

376 psychologist by the United States Department of Veterans Affairs

377 or the United States Department of Defense.

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378 (39)-(37) "Public facility" means a facility that has

379 contracted with the department to provide mental health services

380 to all ~~individuals~~ persons, regardless of ability to pay, and is

381 receiving state funds for such purpose.

382 (40)-(38) "Qualified professional" means a physician or a

383 physician assistant licensed under chapter 458 or chapter 459; a

384 psychiatrist licensed under chapter 458 or chapter 459; a

385 psychologist as defined in s. 490.003(7); or a psychiatric nurse

386 as defined in this section.

387 (41)-(39) "Receiving facility" means a public or private

388 facility or hospital expressly designated by the department to

389 receive and hold individuals on involuntary status ~~or refer, as~~

390 ~~appropriate, involuntary patients under emergency conditions for~~

391 ~~mental health or substance abuse evaluation and to provide~~

392 ~~treatment or transportation to the appropriate service provider.~~

393 The term does not include a county jail.

394 (42)-(40) "Representative" means a person selected pursuant

395 to s. 394.4597(2) to receive notice of proceedings during the

396 ~~time a patient is held in or admitted to a receiving or~~

397 ~~treatment facility.~~

398 (43)-(41) "Restraint" means:

399 (a) A physical restraint, including any manual method or

400 physical or mechanical device, material, or equipment attached

401 or adjacent to an individual's body so that he or she cannot

402 easily remove the restraint and which restricts freedom of

403 movement or normal access to one's body. "Physical restraint"

404 includes the physical holding of an individual ~~a person~~ during a

405 procedure to forcibly administer psychotropic medication.

406 "Physical restraint" does not include physical devices such as

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407 orthopedically prescribed appliances, surgical dressings and  
 408 bandages, supportive body bands, or other physical holding when  
 409 necessary for routine physical examinations and tests or for  
 410 purposes of orthopedic, surgical, or other similar medical  
 411 ~~treatment when used to provide~~ support for the achievement of  
 412 functional body position or proper balance for protecting an  
 413 individual ~~or when used to protect a person from falling out of~~  
 414 ~~bed.~~

415 (b) A drug or medication used to control an individual's a  
 416 person's behavior or to restrict his or her freedom of movement  
 417 which is not part of the standard treatment regimen for an  
 418 individual having of a person with a diagnosed mental illness.

419 (44) "School psychologist" has the same meaning as in s.  
 420 490.003.

421 (45)-(42) "Seclusion" means the physical segregation or  
 422 involuntary isolation of an individual a person in a room or  
 423 area from which the individual person is prevented from leaving.  
 424 The prevention may be by physical barrier or by a staff member  
 425 who is acting in a manner, or who is physically situated, so as  
 426 to prevent the individual person from leaving the room or area.  
 427 ~~As used in For purposes of~~ this part, the term does not mean  
 428 isolation due to the individual's a person's medical condition  
 429 or symptoms.

430 (46)-(43) "Secretary" means the Secretary of Children and  
 431 Families.

432 (47)-(44) "Service provider" means a public or private  
 433 receiving facility, a facility licensed under chapter 397, a  
 434 treatment facility, an entity under contract with the department  
 435 to provide mental health or substance abuse services, a

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436 community mental health center or clinic, a psychologist, a  
 437 clinical social worker, a marriage and family therapist, a  
 438 mental health counselor, a physician, a psychiatrist, ~~an~~  
 439 ~~advanced registered nurse practitioner,~~ a psychiatric nurse, or  
 440 a substance abuse qualified professional ~~as defined in s. 39.01.~~

441 (48)-(45) "Substance abuse impaired impairment" means a  
 442 condition involving the use of alcoholic beverages or any  
 443 psychoactive or mood-altering substance in such a manner as to  
 444 induce mental, emotional, or physical problems and cause  
 445 socially dysfunctional behavior ~~that a person has lost the power~~  
 446 ~~of self-control and has inflicted or is likely to inflict~~  
 447 ~~physical harm on himself, herself, or another.~~

448 (49) "Substance abuse qualified professional" has the same  
 449 meaning as in s. 397.311(33).

450 (50)-(46) "Transfer evaluation" means the process, as  
 451 approved by the department, in which the individual by which a  
 452 ~~person who is being considered for placement in a state~~  
 453 ~~treatment facility~~ is evaluated for appropriateness of admission  
 454 to a treatment such facility. The transfer evaluation shall be  
 455 conducted by the department, a public receiving facility, or a  
 456 community mental health center or clinic.

457 (51)-(47) "Treatment facility" means a state-owned, state-  
 458 operated, or state-supported hospital, center, or clinic  
 459 designated by the department for extended treatment and  
 460 hospitalization of individuals who have a mental illness, beyond  
 461 that provided ~~for~~ by a receiving facility or a, of persons who  
 462 ~~have a mental illness, including facilities of the United States~~  
 463 ~~Government, and any private facility designated by the~~  
 464 department when rendering such services ~~to a person~~ pursuant to

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465 ~~the provisions of this part. Patients treated in facilities of~~  
 466 ~~the United States Government shall be solely those whose care is~~  
 467 ~~the responsibility of the United States Department of Veterans~~  
 468 ~~Affairs.~~

469 ~~(52)(48)~~ "Triage center" means a facility that has medical,  
 470 mental health, and substance abuse professionals present or on  
 471 call to provide emergency screening and evaluation for mental  
 472 health or substance abuse disorders for individuals transported  
 473 to the center by a law enforcement officer.

474 Section 3. Section 394.457, Florida Statutes, is amended to  
 475 read:

476 394.457 Operation and administration.—

477 (1) ADMINISTRATION.—The Department of Children and Families  
 478 is designated the "Mental Health Authority" of Florida. The  
 479 department and the Agency for Health Care Administration shall  
 480 exercise executive and administrative supervision over all  
 481 ~~mental health~~ facilities, programs, and services.

482 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is  
 483 responsible for:

484 (a) The planning, evaluation, and implementation of a  
 485 complete and comprehensive statewide program of mental health  
 486 and substance abuse, including community services, receiving and  
 487 treatment facilities, child services, research, and training as  
 488 authorized and approved by the Legislature, based on the annual  
 489 program budget of the department. The department is also  
 490 responsible for the coordination of efforts with other  
 491 departments and divisions of the state government, county and  
 492 municipal governments, and private agencies concerned with and  
 493 providing mental health or substance abuse services. It is

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494 responsible for establishing standards, providing technical  
 495 assistance, supervising and exercising supervision of mental  
 496 health and substance abuse programs, and ~~of, and the treatment~~  
 497 ~~of individuals patients~~ at, community facilities, other  
 498 facilities servicing individuals ~~for persons~~ who have a mental  
 499 illness or substance abuse impairment, and any agency or  
 500 facility providing services under ~~to patients pursuant to~~ this  
 501 part.

502 (b) The publication and distribution of an information  
 503 handbook to facilitate the understanding of ~~this part~~, the  
 504 policies and procedures involved in the implementation of this  
 505 part, and the responsibilities of the various service providers  
 506 ~~of services~~ under this part. Distribution of this handbook may  
 507 be limited to online electronic distribution. The department may  
 508 ~~It shall~~ stimulate research by public and private agencies,  
 509 institutions of higher learning, and hospitals in the interest  
 510 of the elimination and amelioration of mental illnesses or  
 511 substance abuse impairments ~~illness~~.

512 (3) POWER TO CONTRACT.—The department may contract to  
 513 provide, and be provided with, services and facilities in order  
 514 to carry out its responsibilities under this part with respect  
 515 ~~to the following agencies:~~ public and private hospitals;  
 516 receiving and treatment facilities; clinics; laboratories;  
 517 departments, divisions, and other units of state government; ~~the~~  
 518 state colleges and universities; ~~the~~ community colleges; private  
 519 colleges and universities; counties, municipalities, and ~~any~~  
 520 other political subdivisions ~~governmental unit~~, including  
 521 facilities of the United States Government; and any other public  
 522 or private entity that ~~which~~ provides or needs facilities or

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523 services. Baker Act funds for community inpatient, crisis  
 524 stabilization, short-term residential treatment, and screening  
 525 services under this part must be allocated to each county  
 526 pursuant to the department's funding allocation methodology.  
 527 Notwithstanding s. 287.057(3)(e), contracts for community-based  
 528 Baker Act services for inpatient, crisis stabilization, short-  
 529 term residential treatment, and screening ~~provided~~ under this  
 530 part, other than those with other units of government, ~~to be~~  
 531 ~~provided for the department~~ must be awarded using competitive  
 532 solicitation sealed bids if the county commission of the county  
 533 receiving the services makes a request to the department  
 534 ~~department's district office~~ by January 15 of the contracting  
 535 year. The department ~~district~~ may not enter into a competitively  
 536 bid contract ~~under this provision~~ if such action will result in  
 537 increases of state or local expenditures for Baker Act services  
 538 ~~within the district~~. Contracts for ~~these~~ Baker Act services  
 539 using competitive solicitation sealed bids are effective for 3  
 540 years. The department shall adopt rules establishing minimum  
 541 standards for such contracted services and facilities and shall  
 542 make periodic audits and inspections to assure that the  
 543 contracted services are provided and meet the standards of the  
 544 department.

545 (4) APPLICATION FOR AND ACCEPTANCE OF GIFTS AND GRANTS.—The  
 546 department may apply for and accept any funds, grants, gifts, or  
 547 services made available to it by any agency or department of the  
 548 Federal Government or any other public or private agency or  
 549 person individual in aid of mental health and substance abuse  
 550 programs. All such moneys must shall be deposited in the State  
 551 Treasury and ~~shall be~~ disbursed as provided by law.

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552 (5) RULES.—The department shall adopt rules:  
 553 (a) ~~The department shall adopt rules~~ Establishing forms and  
 554 procedures relating to the rights and privileges of individuals  
 555 ~~receiving examination or patients seeking mental health~~  
 556 treatment from facilities under this part.  
 557 (b) Implementing and administering ~~The department shall~~  
 558 ~~adopt rules necessary for the implementation and administration~~  
 559 ~~of the provisions of this part,~~ and A program subject to the  
 560 ~~provisions of this part may shall not be permitted to~~ operate  
 561 unless rules designed to ensure the protection of the health,  
 562 safety, and welfare of the individuals examined and patients  
 563 treated under through such program have been adopted. Such rules  
 564 ~~adopted under this subsection~~ must include provisions governing  
 565 the use of restraint and seclusion which are consistent with  
 566 recognized best practices and professional judgment; prohibit  
 567 inherently dangerous restraint or seclusion procedures;  
 568 establish limitations on the use and duration of restraint and  
 569 seclusion; establish measures to ensure the safety of program  
 570 participants and staff during an incident of restraint or  
 571 seclusion; establish procedures for staff to follow before,  
 572 during, and after incidents of restraint or seclusion; establish  
 573 professional qualifications of and training for staff who may  
 574 order or be engaged in the use of restraint or seclusion; and  
 575 establish mandatory reporting, data collection, and data  
 576 dissemination procedures and requirements. Such rules ~~adopted~~  
 577 ~~under this subsection~~ must require that each instance of the use  
 578 of restraint or seclusion be documented in the clinical record  
 579 of the individual who has been restrained or secluded patient.  
 580 (c) ~~The department shall adopt rules~~ Establishing minimum

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581 standards for services provided by a mental health overlay  
 582 program or a mobile crisis response service.

583 (6) PERSONNEL.—

584 (a) The department shall, by rule, establish minimum  
 585 standards of education and experience for professional and  
 586 technical personnel employed in mental health programs,  
 587 including members of a mobile crisis response service.

588 (b) The department ~~may shall~~ design and distribute  
 589 appropriate materials for the orientation and training of  
 590 persons actively engaged in administering ~~implementing~~ the  
 591 provisions of this part relating to the involuntary examination  
 592 and treatment placement of individuals ~~persons~~ who are believed  
 593 to have a mental illness or substance abuse impairment.

594 (7) PAYMENT FOR CARE ~~OF PATIENTS~~.—Fees and fee collections  
 595 for individuals ~~patients~~ in state-owned, state-operated, or  
 596 state-supported treatment facilities must be in accordance with  
 597 ~~shall be according to~~ s. 402.33.

598 Section 4. Subsection (1) and paragraph (b) of subsection  
 599 (2) of section 394.4573, Florida Statutes, are amended to read:  
 600 394.4573 Coordinated system of care; annual assessment;  
 601 essential elements; measures of performance; system improvement  
 602 grants; reports.—On or before December 1 of each year, the  
 603 department shall submit to the Governor, the President of the  
 604 Senate, and the Speaker of the House of Representatives an  
 605 assessment of the behavioral health services in this state. The  
 606 assessment shall consider, at a minimum, the extent to which  
 607 designated receiving systems function as no-wrong-door models,  
 608 the availability of treatment and recovery services that use  
 609 recovery-oriented and peer-involved approaches, the availability

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610 of less-restrictive services, and the use of evidence-informed  
 611 practices. The department's assessment shall consider, at a  
 612 minimum, the needs assessments conducted by the managing  
 613 entities pursuant to s. 394.9082(5). Beginning in 2017, the  
 614 department shall compile and include in the report all plans  
 615 submitted by managing entities pursuant to s. 394.9082(8) and  
 616 the department's evaluation of each plan.

617 (1) As used in this section, the term:

618 (a) "Care coordination" means the implementation of  
 619 deliberate and planned organizational relationships and service  
 620 procedures that improve the effectiveness and efficiency of the  
 621 behavioral health system by engaging in purposeful interactions  
 622 with individuals who are not yet effectively connected with  
 623 services to ensure service linkage. Examples of care  
 624 coordination activities include development of referral  
 625 agreements, shared protocols, and information exchange  
 626 procedures. The purpose of care coordination is to enhance the  
 627 delivery of treatment services and recovery supports and to  
 628 improve outcomes among priority populations.

629 (b) "Case management" means those direct services provided  
 630 to a client in order to assess his or her needs, plan or arrange  
 631 services, coordinate service providers, link the service system  
 632 to a client, monitor service delivery, and evaluate patient  
 633 outcomes to ensure the client is receiving the appropriate  
 634 services.

635 (c) "Coordinated system of care" means the full array of  
 636 behavioral and related services in a region or community offered  
 637 by all service providers, whether participating under contract  
 638 with the managing entity or by another method of community



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639 partnership or mutual agreement.

640 (d) "No-wrong-door model" means a model for the delivery of  
641 acute care services to individuals ~~persons~~ who have mental  
642 health or substance use disorders, or both, which optimizes  
643 access to care, regardless of the entry point to the behavioral  
644 health care system.

645 (2) The essential elements of a coordinated system of care  
646 include:

647 (b) A designated receiving system that consists of one or  
648 more facilities serving a defined geographic area and  
649 responsible for assessment and evaluation, both voluntary and  
650 involuntary, and treatment or triage of patients who have a  
651 mental health or substance use disorder, or co-occurring  
652 disorders.

653 1. A county or several counties shall plan the designated  
654 receiving system using a process that includes the managing  
655 entity and is open to participation by individuals with  
656 behavioral health needs and their families, service providers,  
657 law enforcement agencies, and other parties. The county or  
658 counties, in collaboration with the managing entity, shall  
659 document the designated receiving system through written  
660 memoranda of agreement or other binding arrangements. The county  
661 or counties and the managing entity shall complete the plan and  
662 implement the designated receiving system by July 1, 2017, and  
663 the county or counties and the managing entity shall review and  
664 update, as necessary, the designated receiving system at least  
665 once every 3 years.

666 2. To the extent permitted by available resources, the  
667 designated receiving system shall function as a no-wrong-door

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668 model. The designated receiving system may be organized in any  
669 manner which functions as a no-wrong-door model that responds to  
670 individual needs and integrates services among various  
671 providers. Such models include, but are not limited to:

672 a. A central receiving system that consists of a designated  
673 central receiving facility that serves as a single entry point  
674 for individuals ~~persons~~ with mental health or substance use  
675 disorders, or co-occurring disorders. The central receiving  
676 facility shall be capable of assessment, evaluation, and triage  
677 or treatment or stabilization of individuals ~~persons~~ with mental  
678 health or substance use disorders, or co-occurring disorders.

679 b. A coordinated receiving system that consists of multiple  
680 entry points that are linked by shared data systems, formal  
681 referral agreements, and cooperative arrangements for care  
682 coordination and case management. Each entry point shall be a  
683 designated receiving facility and shall, within existing  
684 resources, provide or arrange for necessary services following  
685 an initial assessment and evaluation.

686 c. A tiered receiving system that consists of multiple  
687 entry points, some of which offer only specialized or limited  
688 services. Each service provider shall be classified according to  
689 its capabilities as either a designated receiving facility or  
690 another type of service provider, such as a triage center, a  
691 licensed detoxification facility, or an access center. All  
692 participating service providers shall, within existing  
693 resources, be linked by methods to share data, formal referral  
694 agreements, and cooperative arrangements for care coordination  
695 and case management.

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697 An accurate inventory of the participating service providers  
 698 which specifies the capabilities and limitations of each  
 699 provider and its ability to accept patients under the designated  
 700 receiving system agreements and the transportation plan  
 701 developed pursuant to this section shall be maintained and made  
 702 available at all times to all first responders in the service  
 703 area.

704 Section 5. Section 394.4574, Florida Statutes, is amended  
 705 to read:

706 394.4574 Responsibilities for coordination of services for  
 707 a ~~mental health~~ resident with a mental illness who resides in an  
 708 assisted living facility that holds a limited mental health  
 709 license.-

710 (1) As used in this section, the term "mental health  
 711 resident" means an individual who receives social security  
 712 disability income due to a mental disorder as determined by the  
 713 Social Security Administration or receives supplemental security  
 714 income due to a mental disorder as determined by the Social  
 715 Security Administration and receives optional state  
 716 supplementation.

717 (2) Medicaid managed care plans are responsible for  
 718 Medicaid enrolled mental health residents, and managing entities  
 719 under contract with the department are responsible for mental  
 720 health residents who are not enrolled in a Medicaid health plan.  
 721 A Medicaid managed care plan or a managing entity shall ensure  
 722 that:

723 (a) A ~~mental health~~ resident has been assessed by a  
 724 psychiatrist, ~~clinical~~ psychologist, clinical social worker, ~~or~~  
 725 psychiatric nurse, mental health counselor, marriage and family

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726 therapist, or a qualified professional ~~an individual~~ who is  
 727 supervised by one of these professionals, and determined to be  
 728 appropriate to reside in an assisted living facility. The  
 729 documentation must be provided to the administrator of the  
 730 facility within 30 days after the ~~mental health~~ resident has  
 731 been admitted to the facility. An evaluation completed upon  
 732 discharge from a state mental health treatment facility ~~hospital~~  
 733 meets the requirements of this subsection related to  
 734 appropriateness for services ~~placement~~ as a ~~mental health~~  
 735 resident if it was completed within 90 days before admission to  
 736 the facility.

737 (b) A cooperative agreement, as required in s. 429.075, is  
 738 developed by the mental health or substance abuse care ~~care~~ services  
 739 provider that serves a ~~mental health~~ resident and the  
 740 administrator of the assisted living facility with a limited  
 741 mental health license in which the ~~mental health~~ resident is  
 742 living.

743 (c) The community living support plan, as defined in s.  
 744 429.02, has been prepared by a ~~mental health~~ resident and his or  
 745 her mental health case manager in consultation with the  
 746 administrator of the facility or the administrator's designee.  
 747 The plan must be completed and provided to the administrator of  
 748 the assisted living facility with a limited mental health  
 749 license in which the ~~mental health~~ resident lives within 30 days  
 750 after the resident's admission. The support plan and the  
 751 agreement may be in one document.

752 (d) The assisted living facility with a limited mental  
 753 health license is provided with documentation that the  
 754 individual meets the definition of a mental health resident.

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755 (e) The ~~mental health~~ services provider assigns a case  
 756 manager to each ~~mental health~~ resident for whom the entity is  
 757 responsible. The case manager shall coordinate the development  
 758 and implementation of the community living support plan defined  
 759 in s. 429.02. The plan must be updated at least annually, or  
 760 when there is a significant change in the resident's behavioral  
 761 health status. Each case manager shall keep a record of the date  
 762 and time of any face-to-face interaction with the resident and  
 763 make the record available to the responsible entity for  
 764 inspection. The record must be retained for at least 2 years  
 765 after the date of the most recent interaction.

766 (f) Consistent monitoring and implementation of community  
 767 living support plans and cooperative agreements are conducted by  
 768 the resident's case manager.

769 (g) Concerns are reported to the appropriate regulatory  
 770 oversight organization if a regulated provider fails to deliver  
 771 appropriate services or otherwise acts in a manner that has the  
 772 potential to result in harm to the resident.

773 (3) The secretary of ~~Children and Families~~, in consultation  
 774 with the Agency for Health Care Administration, shall require  
 775 each regional district administrator to develop, with community  
 776 input, a detailed annual plan that demonstrates how the regional  
 777 office, in cooperation with service providers, district will  
 778 ensure the provision of state-funded mental health and substance  
 779 abuse treatment services to residents of assisted living  
 780 facilities that hold a limited mental health license. This plan  
 781 must ~~be consistent with the substance abuse and mental health~~  
 782 ~~district plan developed pursuant to s. 394.75 and must address~~  
 783 case management services; access to consumer-operated drop-in

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784 centers; access to services during evenings, weekends, and  
 785 holidays; supervision of the clinical needs of the residents;  
 786 and access to emergency psychiatric care.

787 Section 6. Section 394.458, Florida Statutes, is amended to  
 788 read:

789 394.458 Introduction or removal of certain articles  
 790 unlawful; penalty.—

791 (1)~~(a)~~ Except as authorized by the facility administrator  
 792 for a lawful purpose ~~law or as specifically authorized by the~~  
 793 ~~person in charge of each hospital providing mental health~~  
 794 ~~services under this part~~, it is unlawful to knowingly and  
 795 intentionally bring into any facility providing services under  
 796 this part, or to take or attempt to take or send therefrom, any  
 797 of the following articles ~~introduce into or upon the grounds of~~  
 798 ~~such hospital, or to take or attempt to take or send therefrom,~~  
 799 ~~any of the following articles, which are hereby declared to be~~  
 800 ~~contraband for the purposes of this section:~~

801 ~~(a)1-~~ Any intoxicating beverage or beverage which causes or  
 802 may cause an intoxicating effect;

803 ~~(b)2-~~ Any controlled substance as defined in chapter 893;

804 ~~(c)~~ Any imitation controlled substance as defined in s.  
 805 817.564; or

806 ~~(d)3-~~ Any firearms or deadly weapon, except for certified  
 807 law enforcement officers acting in their official capacity.

808 ~~(b)~~ ~~It is unlawful to transmit to, or attempt to transmit~~  
 809 ~~to, or cause or attempt to cause to be transmitted to, or~~  
 810 ~~received by, any patient of any hospital providing mental health~~  
 811 ~~services under this part any article or thing declared by this~~  
 812 ~~section to be contraband, at any place which is outside of the~~

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813 ~~grounds of such hospital, except as authorized by law or as~~  
 814 ~~specifically authorized by the person in charge of such~~  
 815 ~~hospital.~~

816 (2) A person who violates any provision of this section  
 817 commits a felony of the third degree, punishable as provided in  
 818 s. 775.082, s. 775.083, or s. 775.084.

819 (3) A facility providing services under this part shall  
 820 post at each entry point of the facility a conspicuous notice  
 821 that includes the text of this section.

822 Section 7. Section 394.459, Florida Statutes, is amended to  
 823 read:

824 394.459 Rights of individuals receiving mental health  
 825 treatment and services patients.-

826 (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.-It is the policy of this  
 827 state that the individual dignity of all individuals held for  
 828 examination or admitted for mental health treatment ~~the patient~~  
 829 ~~shall~~ be respected at all times and upon all occasions,  
 830 including ~~any occasion~~ when the individual patient is taken into  
 831 custody, held, or transported. Procedures, facilities, vehicles,  
 832 and restraining devices used ~~utilized~~ for criminals or those  
 833 accused of a crime ~~may shall~~ not be used in connection with  
 834 individuals ~~persons~~ who have a mental illness, except for the  
 835 protection of the individual patient or others. Individuals  
 836 ~~Persons~~ who have a mental illness but who are not charged with a  
 837 criminal offense ~~may shall~~ not be detained or incarcerated in  
 838 the jails of this state. An individual ~~A person~~ who is receiving  
 839 treatment for mental illness ~~may shall~~ not be deprived of any  
 840 constitutional rights. However, if such an individual ~~a person~~  
 841 is adjudicated incapacitated, his or her rights may be limited

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842 to the same extent the rights of any incapacitated individual  
 843 ~~person~~ are limited by law.

844 (2) RIGHT TO TREATMENT.-An individual held for examination  
 845 or admitted for mental health treatment:

846 (a) ~~May A person shall~~ not be denied treatment for mental  
 847 illness and services ~~may shall~~ not be delayed at a receiving or  
 848 treatment facility because of inability to pay. However, every  
 849 reasonable effort to collect appropriate reimbursement for the  
 850 cost of providing mental health services from individuals ~~to~~  
 851 ~~persons~~ able to pay for services, including insurance or third-  
 852 party payers ~~payments~~, shall be made by facilities providing  
 853 services under ~~pursuant to~~ this part.

854 (b) Shall be provided ~~It is further the policy of the state~~  
 855 ~~that~~ the least restrictive appropriate available treatment ~~be~~  
 856 utilized based on the individual's individual needs and best  
 857 interests, ~~of the patient and~~ consistent with the optimum  
 858 improvement of the individual's patient's condition.

859 (c) ~~Each person who remains at a receiving or treatment~~  
 860 ~~facility for more than 12 hours~~ Shall be given a physical  
 861 examination by a health practitioner authorized by law to give  
 862 such examinations and a mental health evaluation by a  
 863 psychiatrist, psychologist, or psychiatric nurse, in a mental  
 864 health receiving facility, within 24 hours after arrival at the  
 865 facility if the individual has not been released or discharged  
 866 pursuant to s. 394.463(2) (h) or s. 394.469. The physical  
 867 examination and mental health evaluation must be documented in  
 868 the clinical record. The physical and mental health examinations  
 869 shall include efforts to identify indicators and symptoms of  
 870 substance abuse impairment, substance abuse intoxication, and

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871 ~~substance abuse withdrawal, within 24 hours after arrival at~~  
872 ~~such facility.~~

873 (d) ~~Every patient in a facility~~ Shall be afforded the  
874 opportunity to participate in activities designed to enhance  
875 self-image and the beneficial effects of other treatments, as  
876 determined by the facility.

877 (e) ~~Not more than 5 days after admission to a facility,~~  
878 ~~each patient~~ Shall have and receive an individualized treatment  
879 plan in writing which the individual patient has had an  
880 opportunity to assist in preparing and to review before ~~prior to~~  
881 ~~its~~ implementation, within 72 hours after admission to a  
882 facility. The plan must ~~shall~~ include a space for the  
883 individual's patient's comments and signature.

884 (3) RIGHT TO EXPRESS AND INFORMED PATIENT CONSENT.-

885 ~~(a)1-~~ Each individual patient entering treatment shall be  
886 asked to give express and informed consent for admission or  
887 treatment.

888 (a) If the individual patient has been adjudicated  
889 incapacitated or found to be incompetent to consent to  
890 treatment, express and informed consent must to treatment shall  
891 be sought instead from his or her the patient's guardian or  
892 guardian advocate or health care surrogate or proxy. If the  
893 individual patient is a minor, express and informed consent for  
894 admission or treatment must be obtained from the minor's shall  
895 ~~also be requested from the patient's guardian. Express and~~  
896 ~~informed consent for admission or treatment of a patient under~~  
897 ~~18 years of age shall be required from the patient's~~ guardian,  
898 unless the minor is seeking outpatient crisis intervention  
899 services under s. 394.4784. ~~Express and informed consent for~~

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900 admission or treatment given by a patient who is under 18 years  
901 of age shall not be a condition of admission when the patient's  
902 guardian gives express and informed consent for the patient's  
903 admission pursuant to s. 394.463 or s. 394.467.

904 ~~(b)2-~~ Before giving express and informed consent, the  
905 following information shall be provided and explained in plain  
906 language to the individual and to his or her patient, ~~or to the~~  
907 ~~patient's~~ guardian if the individual is an adult patient is 18  
908 ~~years of age or older~~ and has been adjudicated incapacitated, ~~or~~  
909 to his or her the patient's guardian advocate if the individual  
910 ~~patient~~ has been found to be incompetent to consent to  
911 treatment, to the health care surrogate or proxy, or to both the  
912 individual patient and the guardian if the individual patient is  
913 a minor;+ the reason for admission or treatment; the proposed  
914 treatment; the purpose of the treatment to be provided; the  
915 common risks, benefits, and side effects ~~thereof;~~ the specific  
916 dosage range for the medication, if when applicable; alternative  
917 treatment modalities; the approximate length of care; the  
918 potential effects of stopping treatment; how treatment will be  
919 monitored; and that any consent given for treatment may be  
920 revoked orally or in writing before or during the treatment  
921 period by the individual receiving treatment patient or by a  
922 person who is legally authorized to make health care decisions  
923 on the individual's behalf of the patient.

924 ~~(b) In the case of medical procedures requiring the use of~~  
925 ~~a general anesthetic or electroconvulsive treatment, and prior~~  
926 ~~to performing the procedure, express and informed consent shall~~  
927 ~~be obtained from the patient if the patient is legally~~  
928 ~~competent, from the guardian of a minor patient, from the~~

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 929 guardian of a patient who has been adjudicated incapable, or  
 930 from the guardian advocate of the patient if the guardian  
 931 advocate has been given express court authority to consent to  
 932 medical procedures or electroconvulsive treatment as provided  
 933 ~~under s. 394.4598.~~

934 ~~(c) When the department is the legal guardian of a patient,~~  
 935 ~~or is the custodian of a patient whose physician is unwilling to~~  
 936 ~~perform a medical procedure, including an electroconvulsive~~  
 937 ~~treatment, based solely on the patient's consent and whose~~  
 938 ~~guardian or guardian advocate is unknown or unlocatable, the~~  
 939 ~~court shall hold a hearing to determine the medical necessity of~~  
 940 ~~the medical procedure. The patient shall be physically present,~~  
 941 ~~unless the patient's medical condition precludes such presence,~~  
 942 ~~represented by counsel, and provided the right and opportunity~~  
 943 ~~to be confronted with, and to cross-examine, all witnesses~~  
 944 ~~alleging the medical necessity of such procedure. In such~~  
 945 ~~proceedings, the burden of proof by clear and convincing~~  
 946 ~~evidence shall be on the party alleging the medical necessity of~~  
 947 ~~the procedure.~~

948 ~~(d) The administrator of a receiving or treatment facility~~  
 949 ~~may, upon the recommendation of the patient's attending~~  
 950 ~~physician, authorize emergency medical treatment, including a~~  
 951 ~~surgical procedure, if such treatment is deemed lifesaving, or~~  
 952 ~~if the situation threatens serious bodily harm to the patient,~~  
 953 ~~and permission of the patient or the patient's guardian or~~  
 954 ~~guardian advocate cannot be obtained.~~

955 (4) QUALITY OF TREATMENT.—

956 (a) Each individual held for examination, admitted for  
 957 mental health treatment, or receiving involuntary treatment

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 958 patient shall receive services that are, including, for a  
 959 ~~patient placed under s. 394.4655, those services included in the~~  
 960 ~~court order which are suited to his or her needs, and which~~  
 961 ~~shall be administered skillfully, safely, and humanely with full~~  
 962 ~~respect for the individual's patient's dignity and personal~~  
 963 ~~integrity. Each individual patient shall receive such medical,~~  
 964 ~~vocational, social, educational, and rehabilitative services as~~  
 965 ~~his or her condition requires in order to live successfully in~~  
 966 ~~the community. In order to achieve this goal, the department~~  
 967 ~~shall is directed to coordinate its mental health programs with~~  
 968 ~~all other programs of the department and other state agencies.~~

969 (b) Facilities shall develop and maintain, in a form  
 970 accessible to and readily understandable by individuals held for  
 971 examination, admitted for mental health treatment, or receiving  
 972 involuntary treatment patients and consistent with rules adopted  
 973 by the department, ~~the following:~~

974 1. Criteria, procedures, and required staff training for  
 975 the any use of close or elevated levels of supervision; ~~of~~  
 976 restraint, seclusion, or isolation; ~~or of~~ emergency treatment  
 977 orders; ~~and for the use of~~ bodily control and physical  
 978 management techniques.

979 2. Procedures for documenting, monitoring, and requiring  
 980 clinical review of all uses of the procedures described in  
 981 subparagraph 1. and for documenting and requiring review of any  
 982 incidents resulting in injury to individuals receiving services  
 983 patients.

984 3. A system for investigating, tracking, managing, and  
 985 responding to complaints by individuals ~~persons~~ receiving  
 986 services or persons ~~individuals~~ acting on their behalf.

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987 (c) Receiving and treatment facilities shall have written  
 988 procedures for reporting events that place individuals receiving  
 989 services at risk of harm. Such events must be reported to the  
 990 department as soon as reasonably possible after discovery and  
 991 include, but are not limited to:

992 1. The death, regardless of cause or manner, of an  
 993 individual examined or treated at a facility that occurs while  
 994 the individual is at the facility or that occurs within 72 hours  
 995 after release, if the death is known to the facility  
 996 administrator.

997 2. An injury sustained, or allegedly sustained, at a  
 998 facility, by an individual examined or treated at the facility  
 999 and caused by an accident, self-injury, assault, act of abuse,  
 1000 neglect, or suicide attempt, if the injury requires medical  
 1001 treatment by a licensed health care practitioner in an acute  
 1002 care medical facility.

1003 3. The unauthorized departure or absence of an individual  
 1004 from a facility in which he or she has been held for involuntary  
 1005 examination or involuntary treatment.

1006 4. A disaster or crisis situation such as a tornado,  
 1007 hurricane, kidnapping, riot, or hostage situation that  
 1008 jeopardizes the health, safety, or welfare of individuals  
 1009 examined or treated in a facility.

1010 5. An allegation of sexual battery upon an individual  
 1011 examined or treated in a facility.

1012 (d)(e) A facility may not use seclusion or restraint for  
 1013 punishment, in compensation to compensate for inadequate  
 1014 staffing, or for the convenience of staff. Facilities shall  
 1015 ensure that all staff, contractors, and volunteers are made

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1016 aware of these restrictions ~~on the use of seclusion and~~  
 1017 ~~restraint and shall make~~ and maintain records which demonstrate  
 1018 that this information has been conveyed to each staff member,  
 1019 contractor, and volunteer individual staff members.

1020 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

1021 (a) Each individual held for examination or admitted for  
 1022 mental health treatment person receiving services in a facility  
 1023 providing ~~mental health~~ services under this part has the right  
 1024 to communicate freely and privately with persons outside the  
 1025 facility unless it is determined that such communication is  
 1026 likely to be harmful to the individual person or others. Each  
 1027 facility shall make ~~available as soon as reasonably possible to~~  
 1028 ~~persons receiving services~~ a telephone that allows for free  
 1029 local calls and access to a long-distance service available to  
 1030 the individual as soon as reasonably possible. A facility is not  
 1031 required to pay the costs of an individual's a patient's long-  
 1032 distance calls. The telephone ~~must shall~~ be readily accessible  
 1033 ~~to the patient and shall be~~ placed so that the individual  
 1034 ~~patient~~ may use it to communicate privately and confidentially.  
 1035 The facility may establish reasonable rules for the use of this  
 1036 telephone ~~which, provided that the rules~~ do not interfere with  
 1037 an individual's a patient's access to a telephone to report  
 1038 abuse pursuant to paragraph (e).

1039 (b) Each individual patient admitted to a facility under  
 1040 ~~the provisions of this part is shall be~~ allowed to receive,  
 1041 send, and mail sealed, unopened correspondence; and the  
 1042 individual's no patient's incoming or outgoing correspondence  
 1043 ~~may not shall~~ be opened, delayed, held, or censored by the  
 1044 facility unless there is reason to believe that it contains

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1045 items or substances ~~that which~~ may be harmful to the individual  
 1046 patient or others, in which case the administrator may direct  
 1047 reasonable examination of such mail and may regulate the  
 1048 disposition of such items or substances.

1049 (c) Each facility ~~shall allow must permit~~ immediate access  
 1050 to an individual held for examination or admitted for mental  
 1051 health treatment any patient, subject to the patient's right to  
 1052 deny or withdraw consent at any time, by the individual, or by  
 1053 the individual's patient's family members, guardian, guardian  
 1054 advocate, health care surrogate or proxy, representative,  
 1055 ~~Florida statewide or local advocaey council~~, or attorney, unless  
 1056 such access would be detrimental to the individual patient. If  
 1057 ~~the a patient's~~ right to communicate or to receive visitors is  
 1058 restricted by the facility, written notice of such restriction  
 1059 and the reasons for the restriction shall be served on the  
 1060 individual and the individual's attorney, patient, the patient's  
 1061 attorney, and the patient's guardian, guardian advocate, health  
 1062 care surrogate or proxy, or representative; and such restriction  
 1063 and the reason for the restriction, shall be recorded ~~in on~~ the  
 1064 patient's clinical record ~~with the reasons therefor~~. The  
 1065 restriction ~~must of a patient's right to communicate or to~~  
 1066 ~~receive visitors shall~~ be reviewed at least every 7 days. The  
 1067 right to communicate or receive visitors ~~may shall~~ not be  
 1068 restricted as a means of punishment. ~~Nothing in~~ This paragraph  
 1069 ~~does not shall be construed to~~ limit the establishment of rules  
 1070 under provisions of paragraph (d).

1071 (d) Each facility shall establish reasonable rules  
 1072 governing visitors, visiting hours, and the use of telephones by  
 1073 individuals held for examination or admitted for mental health

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1074 treatment patients in the least restrictive possible manner. An  
 1075 individual has ~~Patients shall have~~ the right to contact and to  
 1076 receive communication from his or her ~~their~~ attorneys at any  
 1077 reasonable time.

1078 (e) Each individual held for examination or admitted for  
 1079 mental health treatment patient receiving mental health  
 1080 ~~treatment in any facility~~ shall have ready access to a telephone  
 1081 in order to report an alleged abuse. The facility staff shall  
 1082 orally and in writing inform each individual patient of the  
 1083 procedure for reporting abuse and shall make every reasonable  
 1084 effort to present the information in a language that the  
 1085 individual patient understands. A written copy of that  
 1086 procedure, including the telephone number of the central abuse  
 1087 hotline and reporting forms, shall be posted in plain view.

1088 (f) The department ~~must shall~~ adopt rules providing a  
 1089 procedure for reporting alleged abuse. Facility staff ~~shall be~~  
 1090 ~~required~~, as a condition of employment, must ~~to~~ become familiar  
 1091 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

1092 (6) CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS~~.~~The~~  
 1093 rights of an individual held for examination or admitted for  
 1094 mental health treatment ~~A patient's right~~ to the possession of  
 1095 his or her clothing and personal effects shall be respected. The  
 1096 facility may take temporary custody of such effects if when  
 1097 required for medical and safety reasons. ~~The A patient's~~  
 1098 clothing and personal effects shall be inventoried upon their  
 1099 removal into temporary custody. Copies of this inventory shall  
 1100 be given to the individual and his or her patient and to the  
 1101 patient's guardian, guardian advocate, health care surrogate or  
 1102 proxy, or representative and shall be recorded in the patient's

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1103 clinical record. This inventory may be amended upon the request  
 1104 of the individual and his or her patient ~~or the patient's~~  
 1105 guardian, guardian advocate, health care surrogate or proxy, or  
 1106 representative. The inventory and any amendments to it must be  
 1107 witnessed by two members of the facility staff and by the  
 1108 individual patient, if able. All of ~~the a patient's~~ clothing and  
 1109 personal effects held by the facility ~~must shall~~ be returned to  
 1110 the individual patient immediately upon his or her ~~the~~ discharge  
 1111 or transfer ~~of the patient~~ from the facility, unless such return  
 1112 would be detrimental to the individual patient. If personal  
 1113 effects are not returned ~~to the patient~~, the reason must be  
 1114 documented in the clinical record along with the disposition of  
 1115 the clothing and personal effects, which may be given instead to  
 1116 the individual's patient's guardian, guardian advocate, health  
 1117 care surrogate or proxy, or representative. As soon as  
 1118 practicable after an emergency transfer ~~of a patient~~, the  
 1119 individual's patient's clothing and personal effects shall be  
 1120 transferred to the individual's patient's new location, together  
 1121 with a copy of the inventory and any amendments, unless an  
 1122 alternate plan is approved by the individual patient, if he or  
 1123 she is able, and by his or her ~~the patient's~~ guardian, guardian  
 1124 advocate, health care surrogate or proxy, or representative.

1125 (7) VOTING IN PUBLIC ELECTIONS.—An individual held for  
 1126 examination or admitted for mental health treatment ~~A patient~~  
 1127 who is eligible to vote according to the laws of the state has  
 1128 the right to vote in ~~the~~ primary, and general, and special  
 1129 elections. The department shall establish rules to enable such  
 1130 individuals patients to obtain voter registration forms,  
 1131 applications for vote-by-mail ballots, and vote-by-mail ballots.

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1132 (8) HABEAS CORPUS.—

1133 (a) At any time, and without notice, an individual held for  
 1134 mental health examination or admitted for inpatient treatment in  
 1135 ~~a person held in a receiving or treatment~~ facility, or a  
 1136 relative, friend, guardian, guardian advocate, health care  
 1137 surrogate or proxy, representative, or attorney, or the  
 1138 department, on behalf of such individual person, may petition  
 1139 for a writ of habeas corpus to question the cause and legality  
 1140 of such detention and request that the court order a return to  
 1141 the writ in accordance with chapter 79. Each individual patient  
 1142 held in a facility shall receive a written notice of the right  
 1143 to petition for a writ of habeas corpus.

1144 (b) At any time, and without notice, an individual held for  
 1145 mental health examination or admitted for inpatient treatment a  
 1146 ~~person who is a patient in a receiving or treatment~~ facility, or  
 1147 a relative, friend, guardian, guardian advocate, health care  
 1148 surrogate or proxy, representative, or attorney, or the  
 1149 department, on behalf of such individual person, may file a  
 1150 petition in the circuit court in the county where the individual  
 1151 ~~patient~~ is being held alleging that he or she the patient is  
 1152 being unjustly denied a right or privilege granted under this  
 1153 ~~part herein~~ or that a procedure authorized under this part  
 1154 ~~herein~~ is being abused. Upon the filing of such a petition, the  
 1155 court ~~may shall have the authority~~ to conduct a judicial inquiry  
 1156 and ~~to~~ issue any order ~~needed~~ to correct an abuse of the  
 1157 provisions of this part.

1158 (c) The administrator of any ~~receiving or treatment~~  
 1159 facility receiving a petition under this subsection shall file  
 1160 the petition with the clerk of the court no later than on the

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1161 next court working day.

1162 (d) ~~A No fee may not shall~~ be charged for the filing of a  
1163 petition under this subsection.

1164 (9) VIOLATIONS.—The department shall report to the Agency  
1165 for Health Care Administration and the Department of Health any  
1166 violation of the rights or privileges of individuals patients,  
1167 or of any procedures provided under this part, by any facility  
1168 or professional licensed or regulated under state law by the  
1169 ~~agency. The agency is authorized to impose~~ Any sanction  
1170 authorized for violation of this part may be imposed, based  
1171 solely on the investigation and findings of the department.

1172 (10) LIABILITY FOR VIOLATIONS.—~~A Any~~ person who violates or  
1173 abuses the any rights or privileges of individuals held or  
1174 admitted for mental health treatment patients provided under by  
1175 this part is liable for damages as determined by law. ~~A Any~~  
1176 person who acts reasonably, in good faith, and without  
1177 negligence in compliance with ~~the provisions of~~ this part is  
1178 immune from civil or criminal liability for his or her actions  
1179 in connection with the preparation or execution of petitions,  
1180 applications, certificates, reports, or other documents  
1181 initiating admission to a facility or the apprehension,  
1182 detention, transportation, examination, admission, diagnosis,  
1183 treatment, or discharge of an individual a patient to or from a  
1184 facility. ~~However, this section does not relieve any person from~~  
1185 ~~liability if such person commits negligence.~~

1186 (11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE  
1187 PLANNING.—An individual held for examination or admitted for  
1188 mental health treatment ~~The patient~~ shall have the opportunity  
1189 to participate in treatment and discharge planning and shall be

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1190 notified in writing of his or her right, upon discharge from the  
1191 facility, to seek treatment from the professional or agency of  
1192 the ~~individual's patient's~~ choice.

1193 (12) ADVANCE DIRECTIVES.—All service providers providing  
1194 services under this part shall provide information concerning  
1195 advance directives and assist individuals who are competent and  
1196 willing to complete an advance directive. The directive may  
1197 include instructions regarding mental health or substance abuse  
1198 treatment. Service providers providing services under this part  
1199 shall honor the advance directive of individuals they serve, or  
1200 shall request a transfer for the individual as required by s.  
1201 765.1105.

1202 (13)(12) POSTING OF NOTICE OF RIGHTS OF PATIENTS.—Each  
1203 facility shall post a notice that lists and describes listing  
1204 and describing, in the language and terminology that the  
1205 individual persons to whom the notice is addressed can  
1206 understand, the rights provided under in this section. This  
1207 notice must shall include a statement that ~~provisions of~~ the  
1208 federal Americans with Disabilities Act apply and the name and  
1209 telephone number of a person to contact for further information.  
1210 ~~The This~~ notice must shall be posted in a place readily  
1211 accessible to individuals patients and in a format easily seen  
1212 by the individuals served patients. ~~The This~~ notice must shall  
1213 include the telephone numbers of Disability Rights Florida, Inc  
1214 ~~the Florida local advocacy council and Advocacy Center for~~  
1215 ~~Persons with Disabilities, Inc.~~

1216 Section 8. Section 394.4593, Florida Statutes, is amended  
1217 to read:

1218 394.4593 Sexual misconduct prohibited; reporting required;

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1219 penalties.-

1220 (1) As used in this section, the term:

1221 (a) "Employee" means ~~includes any~~ paid staff member,  
 1222 volunteer, or intern of the department or a service provider  
 1223 providing services pursuant to this part; any person under  
 1224 contract with the department or a service provider providing  
 1225 services pursuant to this part; and any person providing care or  
 1226 support to an individual a client on behalf of the department or  
 1227 its service providers.

1228 (b) "Sexual activity" means:

1229 1. Fondling the genital area, groin, inner thighs,  
 1230 buttocks, or breasts of an individual a person.

1231 2. The oral, anal, or vaginal penetration by or union with  
 1232 the sexual organ of another or the anal or vaginal penetration  
 1233 of another by any other object.

1234 3. Intentionally touching in a lewd or lascivious manner  
 1235 the breasts, genitals, the genital area, or buttocks, or the  
 1236 clothing covering them, of an individual a person, or forcing or  
 1237 enticing an individual a person to touch the perpetrator.

1238 4. Intentionally masturbating in the presence of another  
 1239 individual person.

1240 5. Intentionally exposing the genitals in a lewd or  
 1241 lascivious manner in the presence of another individual person.

1242 6. Intentionally committing any other sexual act that does  
 1243 not involve actual physical or sexual contact with another  
 1244 individual the victim, including, but not limited to,  
 1245 sadomasochistic abuse, sexual bestiality, or the simulation of  
 1246 any act involving sexual activity in the presence of the  
 1247 individual a victim.

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1248 (c) "Sexual misconduct" means any sexual activity between  
 1249 an employee and an individual held or admitted for examination  
 1250 or treatment pursuant to this part a patient, regardless of the  
 1251 consent of that individual the patient. The term does not  
 1252 include an act done for a bona fide medical purpose or an  
 1253 internal search conducted in the lawful performance of duty by  
 1254 an employee.

1255 (2) An employee who engages in sexual misconduct with an  
 1256 individual a patient who:

1257 ~~(a) Is in the custody of the department; or~~

1258 ~~(b) Resides in a receiving facility or a treatment~~  
 1259 ~~facility, as those terms are defined in s. 394.455,~~

1260  
 1261 commits a felony of the second degree, punishable as provided in  
 1262 s. 775.082, s. 775.083, or s. 775.084. An employee may be found  
 1263 guilty of violating this subsection without having committed the  
 1264 crime of sexual battery.

1265 (3) The consent of an individual held or admitted for  
 1266 examination or treatment the patient to sexual activity is not a  
 1267 defense to prosecution under this section.

1268 (4) This section does not apply to an employee who, at the  
 1269 time of the sexual activity:

1270 (a) Is legally married to the individual involved in the  
 1271 sexual activity patient; or

1272 (b) Has no reason to believe that the individual involved  
 1273 in the sexual activity is held or admitted for examination or  
 1274 treatment pursuant to this part person with whom the employee  
 1275 engaged in sexual misconduct is a patient receiving services as  
 1276 described in subsection (2).

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1277 (5) An employee who witnesses sexual misconduct, or who  
 1278 otherwise knows or has reasonable cause to suspect that a person  
 1279 has engaged in sexual misconduct, shall immediately report the  
 1280 incident to the department's central abuse hotline and to the  
 1281 appropriate local law enforcement agency. Such employee shall  
 1282 also prepare, date, and sign an independent report that  
 1283 specifically describes the nature of the sexual misconduct, the  
 1284 location and time of the incident, and the persons involved. The  
 1285 employee shall deliver the report to the supervisor or program  
 1286 director, who is responsible for providing copies to the  
 1287 department's inspector general. The inspector general shall  
 1288 immediately conduct an appropriate administrative investigation,  
 1289 and, if there is probable cause to believe that sexual  
 1290 misconduct has occurred, the inspector general shall notify the  
 1291 state attorney in the circuit in which the incident occurred.

1292 (6) (a) Any person who is required to make a report under  
 1293 this section and who knowingly or willfully fails to do so, or  
 1294 who knowingly or willfully prevents another person from doing  
 1295 so, commits a misdemeanor of the first degree, punishable as  
 1296 provided in s. 775.082 or s. 775.083.

1297 (b) Any person who knowingly or willfully submits  
 1298 inaccurate, incomplete, or untruthful information with respect  
 1299 to a report required under this section commits a misdemeanor of  
 1300 the first degree, punishable as provided in s. 775.082 or s.  
 1301 775.083.

1302 (c) Any person who knowingly or willfully coerces or  
 1303 threatens any other person with the intent to alter testimony or  
 1304 a written report regarding an incident of sexual misconduct  
 1305 commits a felony of the third degree, punishable as provided in

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1306 s. 775.082, s. 775.083, or s. 775.084.

1307 (7) The provisions and penalties set forth in this section  
 1308 are in addition to any other civil, administrative, or criminal  
 1309 action provided by law which may be applied against an employee.

1310 Section 9. Section 394.4595, Florida Statutes, is repealed.

1311 Section 10. Section 394.4596, Florida Statutes, is created  
 1312 to read:

1313 394.4596 Federally mandated protection and advocacy system  
 1314 for individuals with disabilities.—The agency designated by the  
 1315 governor as the federally mandated protection and advocacy  
 1316 system for individuals with disabilities has specific access  
 1317 authority under federal law to facilities, individuals,  
 1318 information, and records. Any facility defined in s. 394.455(12)  
 1319 shall allow this agency to exercise access authority provided to  
 1320 it by state and federal law.

1321 Section 11. Section 394.4597, Florida Statutes, is amended  
 1322 to read:

1323 394.4597 Persons to be notified; individual's ~~patient's~~  
 1324 representative.—

1325 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual  
 1326 ~~a patient~~ is voluntarily admitted to a receiving or treatment  
 1327 facility, the individual shall be asked to identify a person to  
 1328 be notified in case of an emergency, and the identity and  
 1329 contact information of ~~that a person to be notified in case of~~  
 1330 ~~an emergency~~ shall be entered in the ~~patient's~~ clinical record.

1331 (2) INVOLUNTARY ADMISSION PATIENTS.—

1332 (a) At the time an individual ~~a patient~~ is admitted to a  
 1333 facility for involuntary examination or services placement, or  
 1334 when a petition for involuntary services placement is filed, the

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1335 ~~name, address, and telephone number~~ names, addresses, and  
 1336 ~~telephone numbers~~ of the individual's patient's guardian or  
 1337 guardian advocate, ~~health care surrogate or proxy,~~ or  
 1338 representative if ~~he or she~~ the patient has no guardian, and the  
 1339 ~~individual's patient's~~ attorney shall be entered in the  
 1340 ~~patient's~~ clinical record.

1341 (b) If the individual patient has no guardian, guardian  
 1342 advocate, health care surrogate, or proxy, ~~he or she~~ the patient  
 1343 shall be asked to designate a representative. If the individual  
 1344 patient is unable or unwilling to designate a representative,  
 1345 the facility shall select a representative.

1346 (c) The individual patient shall be consulted with regard  
 1347 to the selection of a representative by the receiving or  
 1348 treatment facility and may ~~shall have authority to~~ request that  
 1349 ~~the any such~~ representative be replaced.

1350 (d) ~~If when~~ the receiving or treatment facility selects a  
 1351 representative, first preference shall be given to a health care  
 1352 surrogate, if one has been previously selected ~~by the patient.~~  
 1353 If the individual patient has not previously selected a health  
 1354 care surrogate, the selection, except for good cause documented  
 1355 in the ~~patient's~~ clinical record, shall be made from the  
 1356 following list in the order of listing:

- 1357 1. The individual's patient's spouse.
- 1358 2. An adult child of the individual patient.
- 1359 3. A parent of the individual patient.
- 1360 4. The adult next of kin of the individual patient.
- 1361 5. An adult friend of the individual patient.

1362 (e) The following persons are prohibited from selection as  
 1363 an individual's a patient's representative:

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1364 1. A professional providing clinical services to the  
 1365 individual patient under this part.

1366 2. The licensed professional who initiated the involuntary  
 1367 examination of the individual patient, if the examination was  
 1368 initiated by professional certificate.

1369 3. An employee, a volunteer, a contractor, an  
 1370 administrator, or a board member of the facility providing the  
 1371 examination of the individual patient.

1372 4. An employee, a volunteer, a contractor, an  
 1373 administrator, or a board member of a treatment facility  
 1374 providing treatment for the individual patient.

1375 5. A person providing any substantial professional services  
 1376 to the individual patient, including clinical and nonclinical  
 1377 services.

1378 6. A creditor of the individual patient.

1379 7. A person who is a party subject to an injunction for  
 1380 protection against domestic violence under s. 741.30, whether  
 1381 the order of injunction is temporary or final, and for which the  
 1382 individual patient was the petitioner.

1383 8. A person who is a party subject to an injunction for  
 1384 protection against repeat violence, stalking, sexual violence,  
 1385 or dating violence under s. 784.046, whether the order of  
 1386 injunction is temporary or final, and for which the individual  
 1387 patient was the petitioner.

1388 (f) The representative selected by the individual or  
 1389 designated by the facility has the right, authority, and  
 1390 responsibility to:

- 1391 1. Receive notice of the individual's admission;
- 1392 2. Receive notice of proceedings affecting the individual;

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- 1393 3. Have immediate access to the individual unless such  
 1394 access is documented to be detrimental to the individual;  
 1395 4. Receive notice of any restriction of the individual's  
 1396 right to communicate or receive visitors;  
 1397 5. Receive a copy of the inventory of clothing and personal  
 1398 effects upon the individual's admission and to request an  
 1399 amendment to the inventory at any time;  
 1400 6. Receive disposition of the individual's clothing and  
 1401 personal effects if not returned to the individual, or to  
 1402 approve an alternate plan;  
 1403 7. Petition on behalf of the individual for a writ of  
 1404 habeas corpus to question the cause and legality of the  
 1405 individual's detention or to allege that the individual is being  
 1406 unjustly denied a right or privilege granted under this part, or  
 1407 that a procedure authorized under this part is being abused;  
 1408 8. Apply for a change of venue for the individual's  
 1409 involuntary services placement hearing for the convenience of  
 1410 the parties or witnesses or because of the individual's  
 1411 condition;  
 1412 9. Receive written notice of any restriction of the  
 1413 individual's right to inspect his or her clinical record;  
 1414 10. Receive notice of the release of the individual from a  
 1415 receiving facility where an involuntary examination was  
 1416 performed;  
 1417 11. Receive a copy of any petition for the individual's  
 1418 involuntary services filed with the court; and  
 1419 12. Be informed by the court of the individual's right to  
 1420 an independent expert evaluation pursuant to involuntary  
 1421 services procedures.

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- 1422 Section 12. Section 394.4598, Florida Statutes, is amended  
 1423 to read:  
 1424 394.4598 Guardian advocate.—  
 1425 (1) The administrator may petition the court for the  
 1426 appointment of a guardian advocate based upon the opinion of a  
 1427 psychiatrist that an individual held for examination or admitted  
 1428 for mental health treatment ~~the patient~~ is incompetent to  
 1429 consent to treatment. If the court finds that the individual a  
 1430 patient is incompetent to consent to treatment and has not been  
 1431 adjudicated incapacitated and a guardian having with the  
 1432 authority to consent to mental health or substance abuse  
 1433 treatment has not been appointed, it shall appoint a guardian  
 1434 advocate. The individual patient has the right to have an  
 1435 attorney represent him or her at the hearing. If the individual  
 1436 is not otherwise represented by counsel ~~person is indigent~~, the  
 1437 court shall appoint the office of the public defender to  
 1438 represent him or her at the hearing. The individual patient has  
 1439 the right to testify, cross-examine witnesses, and present  
 1440 witnesses. The proceeding must shall be recorded either  
 1441 electronically or stenographically, and testimony shall be  
 1442 ~~provided~~ under oath. One of the professionals authorized to give  
 1443 an opinion in support of a petition for involuntary services  
 1444 placement, as described in ~~s. 394.4655~~ or s. 394.467, shall must  
 1445 testify. The A guardian advocate shall must meet the  
 1446 qualifications of a guardian pursuant to contained in part IV of  
 1447 chapter 744. A person may not be appointed as a guardian  
 1448 advocate unless he or she agrees, ~~except that a professional~~  
 1449 ~~referred to in this part, an employee of the facility providing~~  
 1450 ~~direct services to the patient under this part, a departmental~~

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1451 ~~employee, a facility administrator, or member of the Florida~~  
 1452 ~~local advocacy council shall not be appointed. A person who is~~  
 1453 ~~appointed as a guardian advocate must agree to the appointment.~~

1454 (2) The following persons are prohibited from being  
 1455 appointed as an individual's appointment as a patient's guardian  
 1456 advocate:

1457 (a) A professional providing clinical services to the  
 1458 individual patient under this part.

1459 (b) The licensed professional who initiated the involuntary  
 1460 examination of the individual patient, if the examination was  
 1461 initiated by professional certificate.

1462 (c) An employee, a contractor, a volunteer, an  
 1463 administrator, or a board member of the facility providing the  
 1464 examination of the individual patient.

1465 (d) An employee, a contractor, a volunteer, an  
 1466 administrator, or a board member of a treatment facility  
 1467 providing treatment of the individual patient.

1468 (e) A person providing any substantial professional  
 1469 services, ~~excluding public and professional guardians~~, to the  
 1470 individual patient, including clinical and nonclinical services.

1471 (f) A creditor of the individual patient.

1472 (g) A ~~party person~~ subject to an injunction for protection  
 1473 against domestic violence under s. 741.30, whether the order of  
 1474 injunction is temporary or final, and for which the individual  
 1475 ~~patient~~ was the petitioner.

1476 (h) A ~~party person~~ subject to an injunction for protection  
 1477 against repeat violence, stalking, sexual violence, or dating  
 1478 violence under s. 784.046, whether the order of injunction is  
 1479 temporary or final, and for which the individual patient was the

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1480 petitioner.

1481 (3) A facility requesting appointment of a guardian  
 1482 advocate ~~shall, before must, prior to~~ the appointment, provide  
 1483 the prospective guardian advocate with information concerning  
 1484 ~~about~~ the duties and responsibilities of guardian advocates,  
 1485 including the information about the ethics of medical  
 1486 decisionmaking. Before asking a guardian advocate to give  
 1487 consent to treatment for an individual held for examination or  
 1488 admitted for mental health treatment a patient, the facility  
 1489 shall provide all disclosures required under s. 394.459(3)(a)2  
 1490 ~~to the guardian advocate sufficient information so that the~~  
 1491 ~~guardian advocate can decide whether to give express and~~  
 1492 ~~informed consent to the treatment, including information that~~  
 1493 ~~the treatment is essential to the care of the patient, and that~~  
 1494 ~~the treatment does not present an unreasonable risk of serious,~~  
 1495 ~~hazardous, or irreversible side effects.~~ Before giving consent  
 1496 to treatment, the guardian advocate shall must meet and talk  
 1497 with the individual patient and the individual's patient's  
 1498 physician face-to-face in person, if at all possible, and by  
 1499 telephone, if not. The guardian advocate shall make every effort  
 1500 to make decisions regarding treatment that he or she believes  
 1501 the individual would have made under the circumstances if the  
 1502 individual were capable of making such decision. The decision of  
 1503 the guardian advocate may be reviewed by the court, upon  
 1504 petition of the individual's patient's attorney, the  
 1505 individual's patient's family, or the facility administrator.

1506 (4) In lieu of the training required of guardians appointed  
 1507 ~~under pursuant to~~ chapter 744, a guardian advocate must, at a  
 1508 minimum, complete participate in a 4-hour training course

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1509 approved by the court before exercising his or her authority. At  
 1510 a minimum, this training course must include information  
 1511 concerning rights of the individual ~~about patient rights,~~  
 1512 psychotropic medications, the diagnosis of mental illness, the  
 1513 ethics of medical decisionmaking, and duties of guardian  
 1514 advocates.

1515 (5) The required training course and the information  
 1516 ~~provided to be supplied~~ to prospective guardian advocates before  
 1517 their appointment must be developed by the department and,  
 1518 approved by the chief judge of the circuit court, ~~and taught by~~  
 1519 ~~a court-approved organization, which may include, but is not~~  
 1520 ~~limited to, a community college, a guardianship organization, a~~  
 1521 ~~local bar association, or The Florida Bar.~~ The training course  
 1522 may be web-based, provided in video format, or other electronic  
 1523 means but must be capable of ensuring the identity and  
 1524 participation of the prospective guardian advocate. The court  
 1525 may waive some or all of the training requirements for guardian  
 1526 advocates or impose additional requirements. The court shall  
 1527 make its decision on a case-by-case basis and, in making its  
 1528 decision, shall consider the experience and education of the  
 1529 guardian advocate, the duties assigned to the guardian advocate,  
 1530 and the needs of the individual subject to involuntary services  
 1531 patient.

1532 (6) In selecting a guardian advocate, the court shall give  
 1533 preference to a health care surrogate, if one has already been  
 1534 designated by the individual held for examination or admitted  
 1535 for mental health treatment patient. If the individual patient  
 1536 has not previously selected a health care surrogate, except for  
 1537 good cause documented in the court record, the selection shall

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1538 be made from the following list in the order of listing:

- 1539 (a) The individual's ~~patient's~~ spouse.  
 1540 (b) An adult child of the individual patient.  
 1541 (c) A parent of the individual patient.  
 1542 (d) The adult next of kin of the individual patient.  
 1543 (e) An adult friend of the individual patient.  
 1544 (f) An adult trained and willing to serve as guardian  
 1545 advocate for the individual patient.  
 1546 (7) If a guardian having with ~~the~~ authority to consent to  
 1547 medical treatment has not already been appointed or if the  
 1548 individual held for examination or admitted for mental health  
 1549 treatment patient has not already designated a health care  
 1550 surrogate, the court may authorize the guardian advocate to  
 1551 consent to medical treatment, as well as mental health and  
 1552 substance abuse treatment. Unless otherwise limited by the  
 1553 court, a guardian advocate who has with authority to consent to  
 1554 medical treatment has ~~shall have~~ the same authority to make  
 1555 health care decisions and is ~~be~~ subject to the same restrictions  
 1556 as a proxy appointed under part IV of chapter 765.  
 1557 (a) Unless the guardian advocate has sought and received  
 1558 express court approval in proceeding separate from the  
 1559 proceeding to determine the competence of the individual patient  
 1560 to consent to medical treatment, the guardian advocate may not  
 1561 consent to:  
 1562 1. ~~(a)~~ Abortion.  
 1563 2. ~~(b)~~ Sterilization.  
 1564 3. ~~(c)~~ Electroconvulsive treatment.  
 1565 4. ~~(d)~~ Psychosurgery.  
 1566 5. ~~(e)~~ Experimental treatments that have not been approved



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1567 by a federally approved institutional review board in accordance  
1568 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

1569 (b) The court must base its decision on evidence that the  
1570 treatment or procedure is essential to the care of the patient  
1571 and that the treatment does not present an unreasonable risk of  
1572 serious, hazardous, or irreversible side effects. The court  
1573 shall follow the procedures set forth in subsection (1) of this  
1574 section.

1575 (8) The guardian advocate shall be discharged when the  
1576 individual for whom he or she is appointed ~~patient~~ is discharged  
1577 from an order for involuntary services ~~outpatient placement or~~  
1578 ~~involuntary inpatient placement~~ or when the individual ~~patient~~  
1579 is transferred from involuntary to voluntary status. The court  
1580 ~~or a hearing officer~~ shall consider the competence of the  
1581 individual ~~patient~~ pursuant to subsection (1) and may consider  
1582 the competence to consent to treatment of an individual on  
1583 involuntary status ~~an involuntarily placed patient's competence~~  
1584 ~~to consent to treatment~~ at any hearing. Upon sufficient  
1585 evidence, the court may restore the individual's, ~~or the hearing~~  
1586 ~~officer may recommend that the court restore, the patient's~~  
1587 competence. A copy of the order restoring competence or the  
1588 certificate of discharge containing the restoration of  
1589 competence shall be provided to the individual ~~patient~~ and the  
1590 guardian advocate.

1591 Section 13. Paragraphs (c) and (d) of subsection (2) of  
1592 section 394.4599, Florida Statutes, are amended to read:

1593 394.4599 Notice.—

1594 (2) INVOLUNTARY ADMISSION.—

1595 (c)1. A receiving facility shall give notice of the

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1596 whereabouts of a minor who is being involuntarily held for  
1597 examination pursuant to s. 394.463 to the minor's parent,  
1598 guardian, caregiver, or guardian advocate, in person or by  
1599 telephone or other form of electronic communication, immediately  
1600 after the minor's arrival at the facility. The facility may  
1601 delay notification for no more than 24 hours after the minor's  
1602 arrival if the facility has submitted a report to the central  
1603 abuse hotline, pursuant to s. 39.201, based upon knowledge or  
1604 suspicion of abuse, abandonment, or neglect and if the facility  
1605 deems a delay in notification to be in the minor's best  
1606 interest.

1607 2. The receiving facility shall attempt to notify the  
1608 minor's parent, guardian, caregiver, or guardian advocate until  
1609 the receiving facility receives confirmation from the parent,  
1610 guardian, caregiver, or guardian advocate, verbally, by  
1611 telephone or other form of electronic communication, or by  
1612 recorded message, that notification has been received. Attempts  
1613 to notify the parent, guardian, caregiver, or guardian advocate  
1614 must be repeated at least once every hour during the first 12  
1615 hours after the minor's arrival and once every 24 hours  
1616 thereafter and must continue until such confirmation is  
1617 received, unless the minor is released at the end of the 72-hour  
1618 examination period, or until a petition for involuntary services  
1619 is filed with the court pursuant to s. 394.463(2)(f)  
1620 ~~394.463(2)(g)~~. The receiving facility may seek assistance from a  
1621 law enforcement agency to notify the minor's parent, guardian,  
1622 caregiver, or guardian advocate if the facility has not received  
1623 within the first 24 hours after the minor's arrival a  
1624 confirmation by the parent, guardian, caregiver, or guardian

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1625 advocate that notification has been received. The receiving  
1626 facility must document notification attempts in the minor's  
1627 clinical record.

1628 (d) The written notice of the filing of the petition for  
1629 involuntary services for an individual being held must contain  
1630 the following:

1631 1. Notice that the petition for+

1632 ~~a. involuntary services inpatient treatment~~ pursuant to s.  
1633 394.467 has been filed with the circuit court in the county in  
1634 which the individual is hospitalized and the address of such  
1635 court; ~~or~~

1636 ~~b. Involuntary outpatient services pursuant to s. 394.4655~~  
1637 ~~has been filed with the criminal county court, as defined in s.~~  
1638 ~~394.4655(1), or the circuit court, as applicable, in the county~~  
1639 ~~in which the individual is hospitalized and the address of such~~  
1640 ~~court.~~

1641 2. Notice that the office of the public defender has been  
1642 appointed to represent the individual in the proceeding, if the  
1643 individual is not otherwise represented by counsel.

1644 3. The date, time, and place of the hearing and the name of  
1645 each examining expert and every other person expected to testify  
1646 in support of continued detention.

1647 4. Notice that the individual, the individual's guardian,  
1648 guardian advocate, health care surrogate or proxy, or  
1649 representative, or the administrator may apply for a change of  
1650 venue for the convenience of the parties or witnesses or because  
1651 of the condition of the individual.

1652 5. Notice that the individual is entitled to an independent  
1653 expert examination and, if the individual cannot afford such an

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1654 examination, that the court will provide for one.

1655 Section 14. Section 394.460, Florida Statutes, is repealed.

1656 Section 15. Section 394.461, Florida Statutes, is amended  
1657 to read:

1658 394.461 Designation of receiving and treatment facilities  
1659 and receiving systems.—The department may ~~is authorized to~~  
1660 designate and monitor receiving facilities, treatment  
1661 facilities, and receiving systems and may suspend or withdraw  
1662 such designation for failure to comply with this part and rules  
1663 adopted under this part. Only governmental facilities and  
1664 facilities ~~Unless~~ designated by the department may, ~~facilities~~  
1665 ~~are not permitted to hold or treat individuals on an involuntary~~  
1666 ~~basis patients under this part.~~

1667 (1) RECEIVING FACILITY.—The department may designate any  
1668 community facility as a receiving facility. ~~Any other facility~~  
1669 ~~within the state, including a private facility, as a receiving~~  
1670 ~~facility if or a federal facility, may be so designated by the~~  
1671 ~~department, provided that~~ such designation is agreed to by the  
1672 governing body or authority of the facility.

1673 (2) TREATMENT FACILITY.—The department may designate any  
1674 state-owned, state-operated, or state-supported facility as a  
1675 state treatment facility. An individual may ~~A civil patient~~  
1676 ~~shall~~ not be admitted to a civil state treatment facility  
1677 without previously undergoing a transfer evaluation. Before a  
1678 court hearing for involuntary services placement in a state  
1679 treatment facility, the court shall receive and consider the  
1680 information documented in the transfer evaluation. Any other  
1681 facility, including a private facility or a governmental federal  
1682 facility, may be designated as a treatment facility by the

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1683 department, ~~if the provided that such~~ designation is agreed to  
1684 by the appropriate governing body or authority of the facility.

1685 (3) GOVERNMENTAL FACILITIES.—Governmental facilities may  
1686 provide voluntary and involuntary mental health or substance  
1687 abuse examination and treatment for individuals in their care  
1688 and custody using the procedures provided in this part and shall  
1689 protect the rights of these individuals.

1690 (4)(3) PRIVATE FACILITIES.—Private facilities designated as  
1691 receiving and treatment facilities by the department may provide  
1692 examination and treatment of individuals on an involuntary or  
1693 voluntary basis are subject to involuntary patients, as well as  
1694 voluntary patients, and are subject to all the provisions of  
1695 this part.

1696 (5)(4) REPORTING REQUIREMENTS.—

1697 (a) A facility designated as a public receiving or  
1698 treatment facility under this section shall report to the  
1699 department individual-level encounter data, as specified by  
1700 rule, as part of the service event record, even if such ~~on an~~  
1701 annual basis the following data, unless these data are currently  
1702 being submitted to the Agency for Health Care Administration.  
1703 The individual level encounter data must be submitted to the  
1704 department by the 15th day of the month following the month in  
1705 which the facility collects the data.

1706 (b) A facility designated as a public receiving or  
1707 treatment facility under this section shall submit to the  
1708 department no later than 90 days after the end of the facility's  
1709 fiscal year the following aggregate data, even if such data are  
1710 currently being submitted to the agency:

1711 1. Number of licensed beds available by payor class.

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1712 ~~2. Number of contract days.~~

1713 ~~3. Number of admissions by payor class and diagnoses.~~

1714 ~~2.4. Contracted bed day unit cost~~ Number of bed days by  
1715 payor class.

1716 ~~3.5.~~ Average length of stay by payor class.

1717 ~~4.6.~~ Total ~~revenue~~ revenues by payor class.

1718 ~~(c)(b)~~ For the purposes of this subsection, "payor class"  
1719 means Medicare, Medicare HMO, Medicaid, Medicaid HMO, private-  
1720 pay health insurance, private-pay health maintenance  
1721 organization, private preferred provider organization, the  
1722 Department of Children and Families, other government programs,  
1723 self-pay individuals ~~patients~~, and charity care.

1724 ~~(d)(e)~~ The data required under this subsection shall be  
1725 submitted to the department ~~within no later than~~ 90 days ~~after~~  
1726 following the end of the facility's fiscal year. A facility  
1727 designated as a public receiving or treatment facility shall  
1728 submit its initial report for the 6-month period ending June 30,  
1729 2008.

1730 ~~(e)(d)~~ The department shall issue an annual report based on  
1731 the data ~~collected~~ required pursuant to this subsection, which  
1732 must include data by facility. The report shall include  
1733 individual facilities' data, as well as statewide totals. The  
1734 report shall be submitted to the Governor, the President of the  
1735 Senate, and the Speaker of the House of Representatives.

1736 ~~(6)(5)~~ RECEIVING SYSTEM.—The department shall designate as  
1737 a receiving system one or more facilities serving a defined  
1738 geographic area developed pursuant to s. 394.4573 which is  
1739 responsible for assessment and evaluation, both voluntary and  
1740 involuntary, and treatment, stabilization, or triage for

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1741 patients who have a mental illness, a substance use disorder, or  
 1742 co-occurring disorders. Any transportation plans developed  
 1743 pursuant to s. 394.462 must support the operation of the  
 1744 receiving system.

1745 ~~(7)(6)~~ RULES.—The department may adopt rules relating to:

1746 (a) Procedures and criteria for receiving and evaluating  
 1747 ~~facility~~ applications for designation as a receiving or  
 1748 treatment facility, which may include an onsite facility  
 1749 inspection and evaluation of an applicant's licensing status and  
 1750 performance history, as well as consideration of local service  
 1751 needs.

1752 (b) Minimum standards consistent with this part ~~which that~~  
 1753 a facility must meet and maintain in order to be designated as a  
 1754 receiving or treatment facility and procedures for monitoring  
 1755 ~~continued~~ adherence to such standards.

1756 (c) Procedures and criteria for designating receiving  
 1757 systems which may include consideration of the adequacy of  
 1758 services provided by facilities within the receiving system to  
 1759 meet the needs of the geographic area using available resources.

1760 (d) Procedures for receiving complaints against a  
 1761 designated facility or designated receiving system and for  
 1762 initiating inspections and investigations of facilities or  
 1763 receiving systems alleged to have violated the provisions of  
 1764 this part or rules adopted under this part.

1765 (e) Procedures and criteria for the suspension or  
 1766 withdrawal of designation as a receiving or treatment facility  
 1767 or receiving system.

1768 Section 16. Section 394.4615, Florida Statutes, is amended  
 1769 to read:

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1770 394.4615 Clinical records; confidentiality.—

1771 (1) A clinical record shall be maintained for each  
 1772 individual held for examination or admitted for treatment under  
 1773 this part patient. The record ~~must shall~~ include data pertaining  
 1774 to admission and such other information as may be required under  
 1775 rules of the department. A clinical record is confidential and  
 1776 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by the  
 1777 express and informed consent of the individual, his or her, by  
 1778 the patient or the patient's guardian or guardian advocate, his  
 1779 or her health care surrogate or proxy, or, if ~~the patient is~~  
 1780 deceased, by his or her ~~the patient's~~ personal representative or  
 1781 the family member who stands next in line of intestate  
 1782 succession, the confidential status of the clinical record is  
 1783 ~~shall not be~~ lost by ~~either~~ authorized or unauthorized  
 1784 disclosure to any person, organization, or agency.

1785 (2) The clinical record of an individual held for  
 1786 examination or admitted for treatment under this part shall be  
 1787 released if when:

1788 (a) The individual patient or the individual's patient's  
 1789 guardian, guardian advocate, or health care surrogate or proxy  
 1790 authorizes the release. The guardian, ~~or~~ guardian advocate, or  
 1791 health care surrogate or proxy, shall be provided access to the  
 1792 appropriate clinical records ~~of the patient~~. The individual  
 1793 patient or the individual's patient's guardian, ~~or~~ guardian  
 1794 advocate, health care surrogate or proxy may authorize the  
 1795 release of information and clinical records to appropriate  
 1796 persons to ensure the continuity of the individual's patient's  
 1797 health care or mental health care.

1798 (b) The individual patient is represented by counsel and

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1799 the records are needed by such ~~the patient's~~ counsel for  
1800 adequate representation.

1801 (c) A petition for involuntary services is filed and the  
1802 records are needed by the state attorney to evaluate the  
1803 sufficiency of the petition or to prosecute the petition.  
1804 However, the state attorney may not use clinical records  
1805 obtained under this part for the purpose of criminal  
1806 investigation or prosecution, or for any other purpose not  
1807 authorized in this part.

1808 (d)(e) The court orders such release. In determining  
1809 whether there is good cause for disclosure, the court shall  
1810 weigh the need for the information to be disclosed against the  
1811 possible harm of disclosure to the individual person to whom  
1812 such information pertains.

1813 (e)(d) The individual patient is committed to, or ~~is to be~~  
1814 returned to, the Department of Corrections ~~from the Department~~  
1815 ~~of Children and Families,~~ and the Department of Corrections  
1816 requests the such records. ~~The These~~ records shall be furnished  
1817 without charge to the Department of Corrections.

1818 (3) Information from the clinical record may be released if  
1819 ~~in the following circumstances:~~

1820 (a) The individual ~~When a patient~~ has declared an intention  
1821 to harm self or others ~~other persons~~. ~~If the When such~~  
1822 declaration has been made, the administrator may authorize the  
1823 release of sufficient information to prevent harm ~~provide~~  
1824 ~~adequate warning to the person threatened with harm by the~~  
1825 ~~patient.~~

1826 (b) ~~When~~ The administrator of the facility or secretary of  
1827 the department deems that release to a qualified researcher as

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1828 defined in administrative rule, an aftercare treatment provider,  
1829 or an employee or agent of the department is necessary for  
1830 treatment of the individual patient, maintenance of adequate  
1831 records, compilation of treatment data, aftercare planning, or  
1832 evaluation of programs.

1833 (c) The information is necessary for the purpose of  
1834 determining whether an individual a person meets the criteria  
1835 for involuntary services. In such circumstances outpatient  
1836 placement or for preparing the proposed treatment plan pursuant  
1837 ~~to s. 394.4655,~~ the clinical record may be released to the state  
1838 attorney, the public defender or the individual's patient's  
1839 private legal counsel, the court, and to the appropriate mental  
1840 health professionals, ~~including the service provider identified~~  
1841 ~~in s. 394.4655(7)(b)2., in accordance with state and federal~~  
1842 ~~law.~~

1843 (4) Information from clinical records may be used for  
1844 statistical and research purposes if the information is  
1845 abstracted in such a way as to protect the identity of  
1846 individuals served and meets the requirements of department  
1847 rules.

1848 (5) Information from clinical records may be used by the  
1849 Agency for Health Care Administration ~~and,~~ the department, ~~and~~  
1850 ~~the Florida advocacy councils~~ for the purpose of monitoring  
1851 facility activity and investigating complaints concerning  
1852 facilities.

1853 (6) Clinical records relating to a Medicaid recipient shall  
1854 be furnished to the Medicaid Fraud Control Unit of the Attorney  
1855 General's Office ~~in the Department of Legal Affairs,~~ upon  
1856 request.

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1857 (7) Any person, agency, or entity receiving information  
1858 pursuant to this section shall maintain such information as  
1859 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

1860 (8) Any facility or private mental health practitioner who  
1861 acts in good faith in releasing information pursuant to this  
1862 section is not subject to civil or criminal liability for such  
1863 release.

1864 (9) ~~Nothing in~~ This section does not ~~is intended to~~  
1865 prohibit the parent or next of kin of an individual who is held  
1866 for examination or admitted for treatment under this part a  
1867 person who is held in or treated under a mental health facility  
1868 or program from requesting and receiving information limited to  
1869 a summary of that individual's person's treatment plan and  
1870 current physical and mental condition. Release of such  
1871 information must shall be in accordance with the code of ethics  
1872 of the profession involved.

1873 (10) An individual held for examination or admitted for  
1874 treatment Patients shall have reasonable access to his or her  
1875 their clinical records, unless such access is determined by the  
1876 individual's patient's physician to be harmful to the individual  
1877 patient. If the individual's patient's right to inspect his or  
1878 her clinical record is restricted by the facility, written  
1879 notice of the such restriction must shall be given to the  
1880 individual and his or her patient and the patient's guardian,  
1881 guardian advocate, attorney, health care surrogate or proxy, or  
1882 and representative. In addition, the restriction must shall be  
1883 recorded in the clinical record, together with the reasons for  
1884 it. The restriction expires ~~of a patient's right to inspect his~~  
1885 ~~or her clinical record shall expire~~ after 7 days but may be

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1886 renewed, after review, for subsequent 7-day periods.

1887 (11) Any person who fraudulently alters, defaces, or  
1888 falsifies the clinical record of an individual any person  
1889 receiving ~~mental health~~ services in a facility subject to this  
1890 part, or causes or procures any of these offenses to be  
1891 committed, commits a misdemeanor of the second degree,  
1892 punishable as provided in s. 775.082 or s. 775.083.

1893 Section 17. Section 394.462, Florida Statutes, is amended  
1894 to read:

1895 394.462 Transportation.—A transportation plan shall be  
1896 developed and implemented by each county by July 1, 2017, in  
1897 collaboration with the managing entity in accordance with this  
1898 section. A county may enter into a memorandum of understanding  
1899 with the governing boards of nearby counties to establish a  
1900 shared transportation plan. When multiple counties enter into a  
1901 memorandum of understanding for this purpose, the counties shall  
1902 notify the managing entity and provide it with a copy of the  
1903 agreement. The transportation plan shall describe methods of  
1904 transport to a facility within the designated receiving system  
1905 for individuals subject to involuntary examination under s.  
1906 394.463 or involuntary admission under s. 397.6772, s. 397.679,  
1907 s. 397.6798, or s. 397.6811, and may identify responsibility for  
1908 other transportation to a participating facility when necessary  
1909 and agreed to by the facility. The plan may rely on emergency  
1910 medical transport services or private transport companies, as  
1911 appropriate. The plan shall comply with the transportation  
1912 provisions of this section and ss. 397.6772, 397.6795, 397.6822,  
1913 and 397.697.

1914 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

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1915 (a) Each county shall designate a single law enforcement  
 1916 agency within the county, or portions thereof, to take an  
 1917 individual a person into custody upon the initiation of an  
 1918 involuntary mental health examination and to transport that  
 1919 individual entry of an ex parte order or the execution of a  
 1920 certificate for involuntary examination by an authorized  
 1921 professional and to transport that person to the appropriate  
 1922 facility, excluding a governmental facility, within the  
 1923 designated receiving system pursuant to a transportation plan or  
 1924 an exception under subsection (4), or to the nearest receiving  
 1925 facility if neither apply. However, if the law enforcement  
 1926 officer providing transportation believes that the individual is  
 1927 eligible for services provided by the United States Department  
 1928 of Veterans Affairs, the officer may transport the individual to  
 1929 a facility operated by the United States Department of Veterans  
 1930 Affairs.

1931 (b) A law enforcement officer acting in good faith pursuant  
 1932 to this part may not be held criminally or civilly liable for  
 1933 false imprisonment.

1934 (c) ~~(b) 1-~~ The designated law enforcement agency may decline  
 1935 to transport the individual person to a receiving facility only  
 1936 if:

1937 ~~1.a-~~ The county or jurisdiction designated by the county  
 1938 has contracted ~~on an annual basis~~ with an emergency medical  
 1939 transport service or private transport company for  
 1940 transportation of individuals persons to receiving facilities.  
 1941 ~~pursuant to this section at the sole cost of the county; and~~

1942 ~~2.b-~~ The law enforcement agency and the emergency medical  
 1943 transport service or private transport company agree that the

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1944 continued presence of law enforcement personnel is not necessary  
 1945 for the safety of the individual being transported person or  
 1946 others.

1947 ~~3.2-~~ The entity providing transportation ~~may seek~~  
 1948 ~~reimbursement for transportation expenses. The party responsible~~  
 1949 ~~for payment for such transportation is the person receiving the~~  
 1950 ~~transportation. The county shall seek reimbursement from the~~  
 1951 following sources in the following order:

1952 a. From a private or public third-party payor, if the  
 1953 individual being transported person receiving the transportation  
 1954 has applicable coverage.

1955 b. From the individual being transported person receiving  
 1956 the transportation.

1957 c. From a financial settlement for medical care, treatment,  
 1958 hospitalization, or transportation payable or accruing to the  
 1959 injured party.

1960 (d) ~~(e)~~ A company that transports an individual a patient  
 1961 pursuant to this subsection is considered an independent  
 1962 contractor and is solely liable for the safe and dignified  
 1963 transport of the individual patient. ~~The Such~~ company must be  
 1964 insured and maintain at least provide no less than \$100,000 in  
 1965 liability insurance with respect to such the transport of  
 1966 patients.

1967 ~~(d) Any company that contracts with a governing board of a~~  
 1968 ~~county to transport patients shall comply with the applicable~~  
 1969 ~~rules of the department to ensure the safety and dignity of~~  
 1970 ~~patients.~~

1971 (e) ~~If When~~ a law enforcement officer takes custody of an  
 1972 individual a person pursuant to this part, the officer may

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1973 request assistance from emergency medical personnel if ~~the such~~  
 1974 assistance is needed for the safety of the officer or the  
 1975 individual person in custody.

1976 (f) ~~If When~~ a member of a mental health overlay program or  
 1977 a mobile crisis response service who is a professional  
 1978 authorized to initiate an involuntary examination pursuant to s.  
 1979 394.463 or s. 397.675 ~~and that professional~~ evaluates an  
 1980 individual a person and determines that transportation to a  
 1981 receiving facility is needed, the service, ~~at its discretion,~~  
 1982 may transport the individual person to the facility or may call  
 1983 on the law enforcement agency or other transportation  
 1984 arrangement best suited to the needs of the individual being  
 1985 transported patient.

1986 (g) ~~If a When any~~ law enforcement officer has custody of an  
 1987 individual a person based on a misdemeanor or a felony, other  
 1988 than a forcible felony as defined in s. 776.08, who either  
 1989 ~~noncriminal or minor criminal behavior that~~ meets the statutory  
 1990 guidelines for involuntary examination pursuant to s. 394.463,  
 1991 the law enforcement officer shall transport the individual  
 1992 person to the appropriate facility within the designated  
 1993 receiving system pursuant to a transportation plan or an  
 1994 exception under subsection (4), or to the nearest receiving  
 1995 facility if neither apply. ~~Individuals Persons~~ who meet the  
 1996 statutory guidelines for involuntary admission pursuant to s.  
 1997 397.675 may also be transported by law enforcement officers to  
 1998 the extent resources are available and as otherwise provided by  
 1999 law. Such persons shall be transported to an appropriate  
 2000 facility within the designated receiving system pursuant to a  
 2001 transportation plan or an exception under subsection (4), or to

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2002 the nearest facility if neither apply.

2003 (h) ~~If a When any~~ law enforcement officer has arrested an  
 2004 individual a person for a forcible felony, as defined in s.  
 2005 776.08, and it appears that the individual person meets the  
 2006 ~~criteria statutory guidelines~~ for involuntary examination ~~or~~  
 2007 ~~placement~~ under this part, the individual such person must first  
 2008 be processed in the same manner as any other criminal suspect.  
 2009 The law enforcement agency shall thereafter immediately notify  
 2010 the appropriate facility within the designated receiving system  
 2011 pursuant to a transportation plan or an exception under  
 2012 subsection (4), or to the nearest receiving facility if neither  
 2013 apply. The receiving facility shall be responsible for promptly  
 2014 arranging for the examination and treatment of the individual  
 2015 person. A receiving facility is not required to admit an  
 2016 individual a person charged with a forcible felony, as defined  
 2017 in s. 776.08, crime for whom the facility determines and  
 2018 documents that it is unable to provide adequate security, but  
 2019 shall provide examination and treatment to the individual person  
 2020 where he or she is held.

2021 (i) If the appropriate law enforcement officer believes  
 2022 that an individual a person has an emergency medical condition  
 2023 as defined in s. 395.002, the individual person may be ~~first~~  
 2024 transported to a hospital for emergency medical treatment,  
 2025 regardless of whether the hospital is a designated receiving  
 2026 facility.

2027 (j) The costs of transportation, evaluation,  
 2028 hospitalization, and treatment incurred under this subsection by  
 2029 an individual who was persons who have been arrested for a  
 2030 violation violations of any state law or county or municipal



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ordinance may be recovered as provided in s. 901.35.

(k) The appropriate facility within the designated receiving system pursuant to a transportation plan or an exception under subsection (4), or the nearest receiving facility if neither apply, must accept an individual ~~persons~~ brought by law enforcement officers, or an emergency medical transport service or a private transport company authorized by the county, for involuntary examination pursuant to s. 394.463. The original of the form initiating the involuntary examination is not required for a receiving facility to accept such an individual or for transfers from one facility to another.

(l) The appropriate facility within the designated receiving system pursuant to a transportation plan or an exception under subsection (4), or the nearest receiving facility if neither apply, must provide persons brought by law enforcement officers, or an emergency medical transport service or a private transport company authorized by the county, pursuant to s. 397.675, a basic screening or triage sufficient to refer the person to the appropriate services.

(m) Each law enforcement agency designated pursuant to paragraph (a) shall establish a policy that reflects a single set of protocols for the safe and secure transportation and transfer of custody of the individual ~~person~~. Each law enforcement agency shall provide a copy of the protocols to the managing entity.

(n) If ~~When~~ a jurisdiction has entered into a contract with an emergency medical transport service or a private transport company for transportation of individuals ~~persons~~ to facilities within the designated receiving system, such service or company

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shall be given preference for transportation of individuals ~~persons~~ from nursing homes, assisted living facilities, adult day care centers, or adult family-care homes, unless the behavior of the individual ~~person~~ being transported is such that transportation by a law enforcement officer is necessary.

(o) This section ~~does not~~ ~~may not be construed to~~ limit emergency examination and treatment of incapacitated persons provided in accordance with s. 401.445.

(p) A law enforcement officer may transport an individual who appears to meet the criteria for voluntary admission under s. 394.4625(1)(a) to a receiving facility at the individual's request.

(2) TRANSPORTATION TO A TREATMENT FACILITY.—

(a) If the individual held for examination or admitted for treatment under this part or ~~neither the patient nor~~ any person legally obligated or responsible for the individual ~~patient~~ is not able to pay for the expense of transporting an individual a ~~voluntary or involuntary patient~~ to a treatment facility, the transportation plan established by the governing board of the county or counties must specify how the hospitalized patient will be transported to, from, and between facilities in a safe and dignified manner.

(b) A company that transports an individual ~~a patient~~ pursuant to this subsection is considered an independent contractor and is solely liable for the safe and dignified transportation of the individual ~~patient~~. ~~The~~ ~~Such~~ company must be insured and provide at least ~~no less than~~ \$100,000 in liability insurance for such ~~with respect to the transport of~~ ~~patients~~.

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2089 ~~(c) A company that contracts with one or more counties to~~  
 2090 ~~transport patients in accordance with this section shall comply~~  
 2091 ~~with the applicable rules of the department to ensure the safety~~  
 2092 ~~and dignity of patients.~~

2093 ~~(c) (d)~~ County or municipal law enforcement and correctional  
 2094 personnel and equipment may not be used to transport an  
 2095 individual patients adjudicated incapacitated or found by the  
 2096 court to meet the criteria for involuntary services under  
 2097 placement pursuant to s. 394.467, except in small rural counties  
 2098 where there are no cost-efficient alternatives.

2099 (3) TRANSFER OF CUSTODY.—Custody of an individual a person  
 2100 who is transported pursuant to this part and, along with related  
 2101 documentation, shall be relinquished to a responsible person  
 2102 individual at the appropriate receiving or treatment facility.

2103 (4) EXCEPTIONS.—An exception to the requirements of this  
 2104 section may be granted by the secretary ~~of the department~~ for  
 2105 the purposes of improving service coordination or better meeting  
 2106 the special needs of individuals. A proposal for an exception  
 2107 shall must be submitted to the department after being approved  
 2108 by the governing boards of any affected counties.

2109 (a) A proposal for an exception must identify the specific  
 2110 provision from which an exception is requested; describe how the  
 2111 proposal will be implemented by participating law enforcement  
 2112 agencies and transportation authorities; and provide a plan for  
 2113 the coordination of services.

2114 (b) An ~~The~~ exception may be granted only for:

2115 1. An arrangement centralizing and improving the provision  
 2116 of services within a county, circuit, or local area district,  
 2117 which may include an exception to the requirement for

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2118 transportation to the nearest receiving facility;

2119 2. An arrangement whereby by which a facility may provide,  
 2120 in addition to required psychiatric or substance use disorder  
 2121 services, an environment and services that which are uniquely  
 2122 tailored to the needs of an identified group of individuals who  
 2123 have persons with special needs, such as persons who have with  
 2124 hearing impairments or visual impairments, or elderly persons  
 2125 who have with physical frailties; or

2126 3. A specialized transportation system that provides an  
 2127 efficient and humane method of transporting individuals patients  
 2128 to and among receiving facilities, ~~among receiving facilities~~,  
 2129 and to treatment facilities.

2130  
 2131 ~~The exceptions provided in this subsection shall expire on June~~  
 2132 ~~30, 2017, and no new exceptions shall be granted after that~~  
 2133 ~~date. After June 30, 2017, the transport of a patient to a~~  
 2134 ~~facility that is not the nearest facility must be made pursuant~~  
 2135 ~~to a plan as provided in this section.~~

2136 Section 18. Section 394.4625, Florida Statutes, is amended  
 2137 to read:

2138 394.4625 Voluntary admissions.—

2139 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE  
 2140 PATIENTS.—

2141 (a) In order to be admitted to a facility on a voluntary  
 2142 basis:

2143 1. An individual must show evidence of mental illness.

2144 2. An individual must be suitable for treatment by the  
 2145 facility.

2146 3. An adult must provide express and informed consent, and

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2147 ~~must be competent to do so.~~

2148 4. A minor may only be admitted on the basis of the express  
2149 and informed consent of the minor's guardian in conjunction with  
2150 the assent of the minor.

2151 a. The assent of the minor is an affirmative agreement by  
2152 the minor to remain at the facility for examination or  
2153 treatment. Mere failure to object is not assent.

2154 b. The minor's assent must be verified through a clinical  
2155 assessment that is documented in the clinical record and  
2156 conducted within 12 hours after arrival at the facility by a  
2157 licensed professional authorized to initiate an involuntary  
2158 examination pursuant to s. 394.463.

2159 c. In verifying the minor's assent, the examining  
2160 professional must first provide the minor with an explanation as  
2161 to why the minor will be examined and treated, what the minor  
2162 can expect while in the facility, and when the minor may expect  
2163 to be released, using language that is appropriate to the  
2164 minor's age, experience, maturity, and condition. The examining  
2165 professional must determine and document that the minor is able  
2166 to understand this information.

2167 d. Unless the minor's assent is verified pursuant to this  
2168 section, a petition for involuntary services must be filed with  
2169 the court or the minor must be released to his or her guardian  
2170 within 24 hours after arrival. ~~A facility may receive for~~  
2171 ~~observation, diagnosis, or treatment any person 18 years of age~~  
2172 ~~or older making application by express and informed consent for~~  
2173 ~~admission or any person age 17 or under for whom such~~  
2174 ~~application is made by his or her guardian. If found to show~~  
2175 ~~evidence of mental illness, to be competent to provide express~~

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2176 ~~and informed consent, and to be suitable for treatment, such~~  
2177 ~~person 18 years of age or older may be admitted to the facility.~~  
2178 ~~A person age 17 or under may be admitted only after a hearing to~~  
2179 ~~verify the voluntariness of the consent.~~

2180 (b) A mental health overlay program or a mobile crisis  
2181 response service or a licensed professional who is authorized to  
2182 initiate an involuntary examination pursuant to s. 394.463 and  
2183 is employed by a community mental health center or clinic shall  
2184 ~~must, pursuant to district procedure approved by the respective~~  
2185 ~~district administrator, conduct an initial assessment of the~~  
2186 ~~ability of the following individuals persons to give express and~~  
2187 ~~informed consent to treatment before such individuals persons~~  
2188 ~~may be admitted voluntarily:~~

2189 1. An individual ~~A person~~ 60 years of age or older for whom  
2190 transfer is being sought from a nursing home, assisted living  
2191 facility, adult day care center, or adult family-care home, if  
2192 the individual ~~when such person~~ has been diagnosed with as  
2193 ~~suffering from~~ dementia.

2194 2. An individual ~~A person~~ 60 years of age or older for whom  
2195 transfer is being sought from a nursing home pursuant to s.  
2196 400.0255(11) ~~400.0255(12)~~.

2197 3. An individual who resides in a facility licensed under  
2198 chapter 400 or chapter 429 ~~A person~~ for whom all decisions  
2199 concerning medical treatment are currently being lawfully made  
2200 by a ~~the~~ health care surrogate or proxy designated under chapter  
2201 765.

2202 (c) ~~If When~~ an initial assessment of the ability of an  
2203 individual ~~a person~~ to give express and informed consent to  
2204 treatment is required under this part section, and a mobile

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2205 crisis response service does not respond to the request for an  
 2206 assessment within 2 hours after the request is made or informs  
 2207 the requesting facility that it will not be able to respond  
 2208 within 2 hours after the request is made, the requesting  
 2209 facility may arrange for assessment by a any licensed  
 2210 professional authorized to initiate an involuntary examination  
 2211 under pursuant to s. 394.463. The professional may not be who is  
 2212 not employed by, ~~or~~ under contract with, or ~~and does not~~ have a  
 2213 financial interest in, ~~either~~ the facility initiating the  
 2214 transfer or the ~~receiving~~ facility to which the transfer may be  
 2215 made and may not have a financial interest in the outcome of the  
 2216 assessment.

2217 (d) A facility may not admit an individual (d) on voluntary  
 2218 status or transfer an individual to voluntary status as a  
 2219 voluntary patient a person who has been adjudicated  
 2220 incapacitated, unless the condition of incapacity has been  
 2221 judicially removed, except when a court authorized a legal  
 2222 guardian in strict adherence to s. 744.3725. If a facility  
 2223 admits an individual on voluntary status who is later determined  
 2224 to have been adjudicated incapacitated, the facility shall  
 2225 discharge the individual or transfer the individual to  
 2226 involuntary status unless there is a court order pursuant to s.  
 2227 744.3725 as a voluntary patient a person who is later determined  
 2228 to have been adjudicated incapacitated, and the condition of  
 2229 incapacity had not been removed by the time of the admission,  
 2230 the facility must either discharge the patient or transfer the  
 2231 patient to involuntary status.

2232 (e) The health care surrogate or proxy of an individual on  
 2233 voluntary status a voluntary patient may not consent to the

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2234 provision of mental health treatment for that individual ~~the~~  
 2235 ~~patient.~~ An individual on voluntary status ~~A voluntary patient~~  
 2236 who is unwilling or unable to provide express and informed  
 2237 consent to mental health treatment must ~~either~~ be discharged or  
 2238 transferred to involuntary status.

2239 (f) Within 24 hours after an individual's voluntary  
 2240 admission, a physician or psychologist ~~admission of a voluntary~~  
 2241 ~~patient, the admitting physician~~ shall document in the ~~patient's~~  
 2242 clinical record whether the individual ~~that the patient~~ is able  
 2243 to give express and informed consent for admission. If the  
 2244 individual patient is not able to give express and informed  
 2245 consent for admission, the facility must ~~shall either~~ discharge  
 2246 ~~the patient or transfer the individual patient~~ to involuntary  
 2247 status pursuant to subsection (5).

2248 (2) RELEASE OR DISCHARGE OF VOLUNTARY PATIENTS.-

2249 (a) A facility shall discharge an individual on voluntary  
 2250 status who a voluntary patient:

2251 1. ~~Who~~ Has sufficiently improved so that retention in the  
 2252 facility is no longer clinically appropriate ~~desirable~~. The  
 2253 individual ~~A patient~~ may ~~also~~ be discharged to the care of a  
 2254 community facility.

2255 2. Has revoked ~~Who revokes~~ consent to admission or requests  
 2256 discharge. The individual or his or her ~~A voluntary patient or a~~  
 2257 relative, friend, or attorney ~~of the patient~~ may request  
 2258 discharge either orally or in writing at any time following  
 2259 admission to the facility. The patient must be discharged within  
 2260 24 hours after ~~of~~ the request, unless the request is rescinded  
 2261 or the individual patient is transferred to involuntary status  
 2262 pursuant to this section. The 24-hour time period may be

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 2263 extended by a treatment facility if ~~when~~ necessary for adequate  
 2264 discharge planning, but may ~~shall~~ not exceed 3 days excluding  
 2265 exclusive of weekends and holidays. If the individual patient,  
 2266 or another on the individual's patient's behalf, makes an oral  
 2267 request for discharge to a staff member, the ~~such~~ request must  
 2268 ~~shall~~ be immediately entered in the patient's clinical record.  
 2269 If the request for discharge is made by a person other than the  
 2270 individual patient, the discharge may be conditioned upon the  
 2271 individual's express and informed consent ~~of the patient~~.

(b) An individual on voluntary status ~~A voluntary patient~~  
 2273 who has been admitted to a facility and who refuses to consent  
 2274 to or revokes consent to treatment must ~~shall~~ be discharged  
 2275 within 24 hours after such refusal or revocation, unless he or  
 2276 she is transferred to involuntary status pursuant to this  
 2277 section or unless the refusal or revocation is freely and  
 2278 voluntarily rescinded by the individual patient.

(c) An individual on voluntary status who is currently  
 2280 charged with a crime shall be discharged to the custody of a law  
 2281 enforcement officer upon release or discharge from a facility,  
 2282 unless the individual has been released from law enforcement  
 2283 custody by posting of a bond, by a pretrial conditional release,  
 2284 or by other judicial release.

(3) NOTICE OF RIGHT TO DISCHARGE.—At the time of admission  
 2286 and at least every 3 ~~6~~ months thereafter, an individual on  
 2287 voluntary status ~~a voluntary patient~~ shall be notified in  
 2288 writing of his or her right to apply for a discharge.

(4) TRANSFER TO VOLUNTARY STATUS.—An individual on  
 2290 involuntary status who has been assessed and certified by a  
 2291 physician or psychologist as competent to provide or refuse to

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 2292 provide express and informed consent and involuntary patient who  
 2293 applies to be transferred to voluntary status shall be  
 2294 transferred to voluntary status immediately, unless the  
 2295 individual has been ordered to involuntary services ~~patient has~~  
 2296 ~~been charged with a crime, or has been involuntarily placed for~~  
 2297 ~~treatment~~ by a court pursuant to s. 394.467 and continues to  
 2298 meet the criteria for involuntary services ~~placement~~. When  
 2299 transfer to voluntary status occurs, notice shall be given as  
 2300 provided in s. 394.4599.

(5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on  
 2302 voluntary status ~~When a voluntary patient~~, or an authorized  
 2303 person on the individual's patient's behalf, makes a request for  
 2304 discharge, the request for discharge, unless freely and  
 2305 voluntarily rescinded, must be communicated to a physician,  
 2306 clinical ~~elinical~~ psychologist, or psychiatrist as quickly as possible,  
 2307 but within not later than 12 hours after the request is made. If  
 2308 the individual patient meets the criteria for involuntary  
 2309 services, the individual must be transferred to a designated  
 2310 receiving facility or governmental facility and the  
 2311 administrator of the receiving or governmental facility where  
 2312 the individual is held ~~placement, the administrator of the~~  
 2313 ~~facility~~ must file with the court a petition for involuntary  
 2314 services ~~placement~~, within 2 court working days after the  
 2315 request ~~for discharge~~ is made. If the petition is not filed  
 2316 within 2 court working days, the individual must ~~patient shall~~  
 2317 be discharged. Pending the filing of the petition, the  
 2318 individual patient may be held and emergency mental health  
 2319 treatment rendered in the least restrictive manner, upon the  
 2320 written order of a physician, if it is determined that such

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2321 treatment is necessary for the safety of the individual patient  
 2322 or others.

2323 Section 19. Section 394.463, Florida Statutes, is amended  
 2324 to read:

2325 394.463 Involuntary examination.-

2326 (1) CRITERIA.-~~An individual may be subject to~~ A person may  
 2327 ~~be taken to a receiving facility for~~ involuntary examination if  
 2328 there is reason to believe that he or she ~~the person~~ has a  
 2329 mental illness and because of this ~~his or her~~ mental illness:

2330 (a)1. The individual person has refused voluntary  
 2331 examination after conscientious explanation and disclosure of  
 2332 the purpose of the examination; or

2333 2. The individual person is unable to determine for himself  
 2334 or herself whether examination is necessary; and

2335 (b)~~1~~. Without care or treatment;  
 2336 1. The individual person is likely to suffer from neglect  
 2337 or refuse to care for himself or herself; such neglect or  
 2338 refusal poses a real and present threat of substantial physical  
 2339 or mental harm to his or her well-being; and it is not apparent  
 2340 that the ~~such~~ harm may be avoided through the help of willing  
 2341 family members or friends or the provision of other services; or

2342 2. There is a substantial likelihood that individual  
 2343 ~~without care or treatment~~ the person will cause serious bodily  
 2344 harm to self himself or herself or others in the near future, as  
 2345 evidenced by recent behavior.

2346 (2) INVOLUNTARY EXAMINATION.-

2347 (a) An involuntary examination may be initiated by any one  
 2348 of the following means:

2349 1. A circuit or county court may enter an ex parte order

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2350 stating that an individual ~~a person~~ appears to meet the criteria  
 2351 for involuntary examination and specifying the findings on which  
 2352 that conclusion is based. The ex parte order for involuntary  
 2353 examination must be based on written or oral sworn testimony  
 2354 that includes specific facts that support the findings. ~~If other~~  
 2355 ~~less restrictive means are not available, such as voluntary~~  
 2356 ~~appearance for outpatient evaluation,~~ A law enforcement officer,  
 2357 or other designated agent of the court, shall take the  
 2358 individual person into custody and deliver him or her to an  
 2359 appropriate, or the nearest, facility within the designated  
 2360 receiving system pursuant to s. 394.462 for involuntary  
 2361 examination. ~~The order of the court order must shall~~ be made a  
 2362 part of the ~~patient's~~ clinical record. A fee may not be charged  
 2363 for the filing of a petition ~~an order~~ under this subsection. A  
 2364 facility accepting the individual patient based on the this  
 2365 order must send a copy of the order to the department the next  
 2366 working day. The order may be submitted electronically through  
 2367 existing data systems, if available. The order is shall be valid  
 2368 only until the individual person is delivered to the facility or  
 2369 for the period specified in the order itself, whichever comes  
 2370 first. If a ~~no~~ time limit is not specified in the order, the  
 2371 order is shall be valid for 7 days after the date it that the  
 2372 ~~order~~ was signed.

2373 a. A law enforcement officer acting in accordance with an  
 2374 ex parte order issued pursuant to this subsection may serve and  
 2375 execute such order on any day of the week, at any time of the  
 2376 day or night.

2377 b. A law enforcement officer acting in accordance with an  
 2378 ex parte order issued pursuant to this subsection may use

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2379 reasonable physical force if necessary to gain entry to the  
 2380 premises and any dwellings, buildings, or other structures  
 2381 located on the premises, and to take custody of the individual  
 2382 who is the subject of the ex parte order.

2383 2. A law enforcement officer shall take an individual ~~a~~  
 2384 ~~person~~ who appears to meet the criteria for involuntary  
 2385 examination into custody and deliver or arrange for the delivery  
 2386 of the individual ~~the person or have him or her delivered~~ to an  
 2387 appropriate, or the nearest, facility within the designated  
 2388 receiving system pursuant to s. 394.462 for examination. The  
 2389 officer shall complete ~~execute~~ a written report detailing the  
 2390 circumstances under which the individual ~~person~~ was taken into  
 2391 custody, which must be made a part of the ~~patient's~~ clinical  
 2392 record. A Any facility accepting the individual ~~patient~~ based on  
 2393 this report must send a copy of the report to the department the  
 2394 next working day.

2395 3. A physician, ~~clinical~~ psychologist, school psychologist,  
 2396 psychiatric nurse, mental health counselor, marriage and family  
 2397 therapist, or clinical social worker, or physician assistant may  
 2398 complete ~~execute~~ a certificate stating that he or she has  
 2399 examined the individual ~~a person~~ within the preceding 48 hours  
 2400 and finds that the individual ~~person~~ appears to meet the  
 2401 criteria for involuntary examination and stating his or her ~~the~~  
 2402 observations upon which that conclusion is based. The  
 2403 certificate shall include specific facts indicating that the  
 2404 individual would benefit from services. The certificate shall be  
 2405 executed immediately. If other less restrictive means, such as  
 2406 voluntary appearance for outpatient evaluation, are not  
 2407 available, A law enforcement officer shall take into custody the

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2408 individual ~~person~~ named in the certificate and deliver him or  
 2409 her to the appropriate, or nearest, facility within the  
 2410 designated receiving system pursuant to s. 394.462 for  
 2411 involuntary examination. A law enforcement officer may only take  
 2412 an individual into custody on the basis of a certificate within  
 2413 7 calendar days after the certificate is signed. The law  
 2414 enforcement officer shall complete ~~execute~~ a written report  
 2415 detailing the circumstances under which the individual ~~person~~  
 2416 was taken into custody. The report and certificate shall be made  
 2417 a part of the ~~patient's~~ clinical record. A Any facility  
 2418 accepting the individual ~~patient~~ based on the this certificate  
 2419 must send a copy of the certificate to the department the next  
 2420 working day. The document may be submitted electronically  
 2421 through existing data systems, if applicable.

2422 (b) A law enforcement officer who initiates an involuntary  
 2423 examination of an individual pursuant to subparagraph (a)2., or  
 2424 a professional who initiates an involuntary examination of an  
 2425 individual pursuant to subparagraph (a)3., may notify the  
 2426 individual's guardian, representative, or health care surrogate  
 2427 or proxy of such examination. A receiving facility accepting an  
 2428 individual for involuntary examination shall make and document  
 2429 immediate attempts to notify the individual's guardian,  
 2430 representative, or health care surrogate or proxy upon the  
 2431 individual's arrival.

2432 (c) ~~(b)~~ An individual ~~A person~~ may not be removed from any  
 2433 program or residential services ~~placement~~ licensed under chapter  
 2434 400 or chapter 429 and transported to a receiving facility for  
 2435 involuntary examination unless an ex parte order, a professional  
 2436 certificate, or a law enforcement officer's report is first

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2437 prepared. If the condition of the individual person is such that  
 2438 preparation of a law enforcement officer's report is not  
 2439 practicable before removal, the report ~~must shall~~ be completed  
 2440 as soon as possible after removal, but ~~in any case~~ before the  
 2441 individual person is transported to a receiving facility. A  
 2442 facility admitting an individual a person for involuntary  
 2443 examination who is not accompanied by the required ex parte  
 2444 order, professional certificate, or law enforcement officer's  
 2445 report ~~must shall~~ notify the department of the such admission by  
 2446 certified mail or by e-mail, if available, by the next working  
 2447 day. ~~The provisions of this paragraph do not apply when~~  
 2448 ~~transportation is provided by the patient's family or guardian.~~  
 2449 (c) A law enforcement officer acting in accordance with an  
 2450 ex parte order issued pursuant to this subsection may serve and  
 2451 execute such order on any day of the week, at any time of the  
 2452 day or night.  
 2453 (d) A law enforcement officer acting in accordance with an  
 2454 ex parte order issued pursuant to this subsection may use such  
 2455 reasonable physical force as is necessary to gain entry to the  
 2456 premises, and any dwellings, buildings, or other structures  
 2457 located on the premises, and to take custody of the person who  
 2458 is the subject of the ex parte order.  
 2459 (d)(e) The department shall receive and maintain the copies  
 2460 of ex parte petitions and orders for involuntary examinations  
 2461 pursuant to this section, involuntary services petitions and  
 2462 orders, ~~involuntary outpatient services orders issued pursuant~~  
 2463 ~~to s. 394.4655, involuntary inpatient placement orders issued~~  
 2464 pursuant to s. 394.467, professional certificates, and law  
 2465 enforcement officers' reports. These documents are shall be

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2466 ~~considered~~ part of the clinical record, governed by ~~the~~  
 2467 ~~provisions of~~ s. 394.4615. These documents shall be used to  
 2468 prepare annual reports analyzing the data obtained from these  
 2469 documents, without information identifying individuals held for  
 2470 examination or admitted for treatment patients, and shall  
 2471 provide copies of reports to the department, the President of  
 2472 the Senate, the Speaker of the House of Representatives, and the  
 2473 minority leaders of the Senate and the House of Representatives.  
 2474 (e)(f) An individual held for examination ~~A patient~~ shall  
 2475 be examined by a physician, ~~or a clinical psychologist, or by a~~  
 2476 psychiatric nurse performing within the framework of an  
 2477 established protocol with a psychiatrist at a facility without  
 2478 unnecessary delay to determine if the criteria for involuntary  
 2479 services are met. Emergency treatment may be provided upon the  
 2480 order of a physician if the physician determines that such  
 2481 treatment is necessary for the safety of the individual patient  
 2482 or others.  
 2483 (f) An individual may not be held for involuntary  
 2484 examination for more than 72 hours after the time of the  
 2485 individual's arrival at the facility. Based on the individual's  
 2486 needs, one of the following actions must be taken within the  
 2487 involuntary examination period:  
 2488 1. The individual shall be released with the approval of a  
 2489 psychiatrist, psychiatric nurse, or psychologist. However, if  
 2490 the examination is conducted in a hospital, an attending  
 2491 emergency department physician may approve release. The  
 2492 professional approving release must have personally conducted  
 2493 the involuntary examination;  
 2494 2. The individual shall be asked to give express and



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2495 informed consent for voluntary admission if a physician or  
 2496 psychologist has determined that the individual is competent to  
 2497 consent to treatment; or

2498 3. A petition for involuntary services shall be completed  
 2499 and filed within 72 hours after the time of the individual's  
 2500 arrival at the facility in the circuit court by the receiving  
 2501 facility administrator if involuntary services are deemed  
 2502 necessary. If electronic filing of the petition is not available  
 2503 in the county and the 72-hour period ends on a weekend or legal  
 2504 holiday, the petition must be filed by the next working day. If  
 2505 involuntary services are deemed necessary, the least restrictive  
 2506 treatment consistent with the optimum improvement of the  
 2507 individual's condition must be made available.

2508 (g) An individual discharged from a receiving or treatment  
 2509 facility on a voluntary or involuntary basis who is currently  
 2510 charged with a crime shall be released to the custody of a law  
 2511 enforcement officer, unless the individual has been released  
 2512 from law enforcement custody by posting of a bond, by a pretrial  
 2513 conditional release, or by other judicial release.

2514 ~~The patient may not be released by the receiving facility or~~  
 2515 ~~its contractor without the documented approval of a psychiatrist~~  
 2516 ~~or a clinical psychologist or, if the receiving facility is~~  
 2517 ~~owned or operated by a hospital or health system, the release~~  
 2518 ~~may also be approved by a psychiatric nurse performing within~~  
 2519 ~~the framework of an established protocol with a psychiatrist, or~~  
 2520 ~~an attending emergency department physician with experience in~~  
 2521 ~~the diagnosis and treatment of mental illness after completion~~  
 2522 ~~of an involuntary examination pursuant to this subsection. A~~  
 2523 ~~psychiatric nurse may not approve the release of a patient if~~

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2524 ~~the involuntary examination was initiated by a psychiatrist~~  
 2525 ~~unless the release is approved by the initiating psychiatrist.~~

2526 ~~(g) Within the 72-hour examination period or, if the 72~~  
 2527 ~~hours ends on a weekend or holiday, no later than the next~~  
 2528 ~~working day thereafter, one of the following actions must be~~  
 2529 ~~taken, based on the individual needs of the patient:~~

2530 ~~1. The patient shall be released, unless he or she is~~  
 2531 ~~charged with a crime, in which case the patient shall be~~  
 2532 ~~returned to the custody of a law enforcement officer;~~

2533 ~~2. The patient shall be released, subject to the provisions~~  
 2534 ~~of subparagraph 1., for voluntary outpatient treatment;~~

2535 ~~3. The patient, unless he or she is charged with a crime,~~  
 2536 ~~shall be asked to give express and informed consent to placement~~  
 2537 ~~as a voluntary patient and, if such consent is given, the~~  
 2538 ~~patient shall be admitted as a voluntary patient; or~~

2539 ~~4. A petition for involuntary services shall be filed in~~  
 2540 ~~the circuit court if inpatient treatment is deemed necessary or~~  
 2541 ~~with the criminal county court, as defined in s. 394.4655(1), as~~  
 2542 ~~applicable. When inpatient treatment is deemed necessary, the~~  
 2543 ~~least restrictive treatment consistent with the optimum~~  
 2544 ~~improvement of the patient's condition shall be made available.~~

2545 ~~When a petition is to be filed for involuntary outpatient~~  
 2546 ~~placement, it shall be filed by one of the petitioners specified~~  
 2547 ~~in s. 394.4655(4)(a). A petition for involuntary inpatient~~  
 2548 ~~placement shall be filed by the facility administrator.~~

2549 ~~(h) If an individual~~ A person ~~for whom an involuntary~~  
 2550 ~~examination has been initiated who is also being evaluated or~~  
 2551 ~~treated at a hospital for an emergency medical condition as~~ as  
 2552 ~~defined specified in s. 395.002, the involuntary examination~~

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2553 ~~must be examined by a facility within 72 hours. The 72-hour~~  
 2554 ~~period begins when the individual patient arrives at the~~  
 2555 ~~hospital and ceases when a the attending physician documents~~  
 2556 ~~that the individual patient has an emergency medical condition.~~  
 2557 The 72-hour period resumes when the physician documents that the  
 2558 emergency medical condition has stabilized or does not exist. If  
 2559 ~~the patient is examined at a hospital providing emergency~~  
 2560 ~~medical services by a professional qualified to perform an~~  
 2561 ~~involuntary examination and is found as a result of that~~  
 2562 ~~examination not to meet the criteria for involuntary outpatient~~  
 2563 ~~services pursuant to s. 394.4655(2) or involuntary inpatient~~  
 2564 ~~placement pursuant to s. 394.467(1), the patient may be offered~~  
 2565 ~~voluntary services or placement, if appropriate, or released~~  
 2566 ~~directly from the hospital providing emergency medical services.~~  
 2567 ~~The finding by the professional that the patient has been~~  
 2568 ~~examined and does not meet the criteria for involuntary~~  
 2569 ~~inpatient services or involuntary outpatient placement must be~~  
 2570 ~~entered into the patient's clinical record. This paragraph is~~  
 2571 ~~not intended to prevent A hospital providing emergency medical~~  
 2572 ~~services may transfer an individual from appropriately~~  
 2573 ~~transferring a patient to another hospital before stabilization~~  
 2574 ~~if the requirements of s. 395.1041(3) (c) are have been met.~~  
 2575 ~~(1) One of the following must occur within 12 hours after a~~  
 2576 ~~the patient's attending physician documents that the~~  
 2577 individual's patient's medical condition has stabilized or that  
 2578 an emergency medical condition has been stabilized or does not  
 2579 exist:  
 2580 1. The individual shall be examined by a physician,  
 2581 psychiatric nurse, or psychologist and, if found not to meet the

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2582 criteria for involuntary examination pursuant to this section,  
 2583 shall be released directly from the hospital providing the  
 2584 emergency medical services. The results of the examination,  
 2585 including the final disposition, shall be entered into the  
 2586 clinical record ~~patient must be examined by a facility and~~  
 2587 ~~released; or~~  
 2588 2. The individual shall be transferred to a receiving  
 2589 facility for examination if ~~patient must be transferred to a~~  
 2590 ~~designated facility in which~~ appropriate medical and mental  
 2591 health treatment is available. However, the receiving facility  
 2592 must be notified of the transfer within 2 hours after the  
 2593 individual's ~~patient's~~ condition has been stabilized or after  
 2594 determination that an emergency medical condition does not  
 2595 exist.  
 2596 (3) NOTICE OF RELEASE.—Notice of the release shall be given  
 2597 to the individual's ~~patient's~~ guardian, health care surrogate or  
 2598 proxy, or representative, ~~to any person who executed a~~  
 2599 ~~certificate admitting the patient to the receiving facility, and~~  
 2600 ~~to any court that ordered the individual's examination which~~  
 2601 ~~ordered the patient's evaluation.~~  
 2602 Section 20. Section 394.4655, Florida Statutes, is  
 2603 repealed.  
 2604 Section 21. Section 394.467, Florida Statutes, is amended  
 2605 to read:  
 2606 394.467 Involuntary services ~~inpatient placement.~~—  
 2607 (1) CRITERIA.—~~An individual A person~~ may be ordered for  
 2608 involuntary services ~~inpatient placement for treatment~~ upon a  
 2609 finding of the court by clear and convincing evidence that:  
 2610 (a) He or she has a mental illness and because of his or

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2611 her mental illness:

2612 1.a. He or she has refused voluntary services ~~inpatient~~  
2613 ~~placement for treatment~~ after sufficient and conscientious  
2614 explanation and disclosure of the purpose of services or  
2615 ~~inpatient placement for~~ treatment; or

2616 b. He or she is unable to determine for himself or herself  
2617 whether inpatient services are ~~placement is~~ necessary; and

2618 2.a. He or she is incapable of surviving alone or with ~~the~~  
2619 ~~help of willing and responsible family or friends, including~~  
2620 available alternative services, and, without treatment, is  
2621 likely to suffer from neglect or refuse to care for himself or  
2622 herself, and such neglect or refusal poses a real and present  
2623 threat of substantial physical or mental harm to his or her  
2624 well-being; or

2625 b. There is substantial likelihood that in the near future  
2626 he or she will inflict serious bodily harm on self or others, as  
2627 evidenced by recent behavior causing, attempting, or threatening  
2628 such harm; and

2629 (b) All available less restrictive ~~treatment~~ alternatives  
2630 that would offer an opportunity for improvement of his or her  
2631 condition have been judged to be inappropriate.

2632 (2) ADMISSION TO A TREATMENT FACILITY.—~~An individual A~~ A  
2633 ~~patient~~ may be retained by a facility or involuntarily ordered  
2634 ~~to placed in~~ a treatment facility upon the recommendation of the  
2635 administrator of the facility where the individual patient has  
2636 been examined and after adherence to the notice and hearing  
2637 procedures provided in s. 394.4599. The recommendation must be  
2638 supported by the opinion of a psychiatrist and the second  
2639 opinion of a ~~clinical~~ psychologist or another psychiatrist, both

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2640 of whom have personally examined the individual patient within  
2641 the preceding 72 hours, that the criteria for involuntary  
2642 services inpatient placement are met. However, if the  
2643 administrator certifies that a psychiatrist or ~~clinical~~  
2644 psychologist is not available to provide the second opinion, the  
2645 second opinion may be provided by a licensed physician who has  
2646 postgraduate training and experience in diagnosis and treatment  
2647 of mental illness or by a psychiatric nurse. Any opinion  
2648 authorized in this subsection may be conducted through a face-  
2649 to-face examination, in person, or by electronic means. Such  
2650 recommendation shall be entered on a petition for involuntary  
2651 services inpatient placement certificate that authorizes the  
2652 facility to retain the individual being held patient pending  
2653 transfer to a treatment facility or completion of a hearing.

2654 (3) PETITION FOR INVOLUNTARY SERVICES ~~INPATIENT PLACEMENT~~.—

2655 (a) The administrator of the receiving facility shall file  
2656 a petition for involuntary services inpatient placement in the  
2657 court in the county where the individual patient is located.  
2658 Upon filing, the clerk of the court shall provide copies to the  
2659 department, the individual, his or her patient, the patient's  
2660 guardian, guardian advocate, health care surrogate or proxy, or  
2661 representative, and the state attorney and public defender of  
2662 the judicial circuit in which the individual patient is located.  
2663 A fee may not be charged for the filing of a petition under this  
2664 subsection.

2665 (b) A receiving or treatment facility filing a petition for  
2666 involuntary services shall send a copy of the petition to the  
2667 Agency for Health Care Administration by the next working day.

2668 (4) APPOINTMENT OF COUNSEL.—

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2669 (a) Within 1 court working day after the filing of a  
 2670 petition for involuntary services inpatient placement, the court  
 2671 shall appoint the public defender to represent the individual  
 2672 ~~person~~ who is the subject of the petition, unless the person is  
 2673 otherwise represented by counsel. The clerk of the court shall  
 2674 ~~immediately~~ notify the public defender of the such appointment.  
 2675 Any attorney representing the individual patient shall have  
 2676 access to the individual patient, witnesses, and records  
 2677 relevant to the presentation of the individual's patient's case  
 2678 and shall represent the interests of the individual patient,  
 2679 regardless of the source of payment to the attorney. If services  
 2680 are ordered, the least restrictive treatment shall be sought.

2681 (b) The state attorney for the circuit in which the  
 2682 individual is located shall represent the state rather than the  
 2683 petitioning facility administrator as the real party in interest  
 2684 in the proceeding. The state attorney shall have access to the  
 2685 individual's clinical record and witnesses and shall have the  
 2686 authority to independently evaluate the sufficiency and  
 2687 appropriateness of the petition for involuntary services. If the  
 2688 state attorney finds the case insufficient, the state attorney  
 2689 shall withdraw the petition. The state attorney may not use  
 2690 clinical records obtained under this part for the purpose of  
 2691 criminal investigation or prosecution, or for any other purpose  
 2692 not authorized under this part.

2693 (5) CONTINUANCE OF HEARING.—The individual patient is  
 2694 entitled, with the concurrence of the individual's patient's  
 2695 counsel, to at least one continuance of the hearing for up to 4  
 2696 weeks. Following consultation with a client concerning his or  
 2697 her available options, an attorney may seek to continue the

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2698 hearing unless the client has verbally instructed the attorney  
 2699 to proceed directly to hearing. If the continuance requested is  
 2700 for a period of more than 1 week, the court shall, after  
 2701 continuing the hearing, hold a hearing as soon as practicable  
 2702 thereafter on the individual's competence to consent to  
 2703 treatment if there is no health care surrogate or proxy and a  
 2704 petition requesting the appointment of a guardian advocate has  
 2705 previously been filed as provided for in s. 394.4598(1). The  
 2706 state attorney may request one continuance for a period of up to  
 2707 1 week. Upon good cause shown, the court may grant the  
 2708 continuance and should set the hearing for the next available  
 2709 hearing date when possible.

2710 (6) HEARING ON INVOLUNTARY SERVICES ~~INPATIENT PLACEMENT~~.—

2711 (a)1. The court shall hold the hearing on involuntary  
 2712 services inpatient placement within 5 court working days after  
 2713 the petition is filed, unless a continuance is granted.

2714 2. Except for good cause documented in the court file,  
 2715 which may be demonstrated by administrative order of the court,  
 2716 the hearing must be held in the receiving or treatment facility  
 2717 where the individual is located. If the hearing cannot be held  
 2718 in the receiving or treatment facility, it must be held in a  
 2719 location convenient to the individual as is consistent with  
 2720 orderly procedure, and which is not likely to be injurious to  
 2721 the individual's county or the facility, as appropriate, where  
 2722 the patient is located, must be as convenient to the patient as  
 2723 is consistent with orderly procedure, and shall be conducted in  
 2724 physical settings not likely to be injurious to the patient's  
 2725 condition. If the court finds that the individual's patient's  
 2726 attendance at the hearing is not consistent with the best

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2727 interests of the individual patient, and the individual's  
 2728 patient's counsel does not object, the court may waive the  
 2729 presence of the individual patient from all or any portion of  
 2730 the hearing. Alternatively, if the individual wishes to  
 2731 voluntarily waive his or her attendance at the hearing, the  
 2732 court must determine that the individual's waiver is knowing,  
 2733 intelligent, and voluntary before waiving the presence of the  
 2734 individual from all or any portion of the hearing. The state  
 2735 attorney for the circuit in which the patient is located shall  
 2736 represent the state, rather than the petitioning facility  
 2737 administrator, as the real party in interest in the proceeding.

2738 3. The court may appoint a magistrate to preside at the  
 2739 hearing. One of the two professionals who executed the petition  
 2740 for involuntary services inpatient placement certificate shall  
 2741 be a witness. The court shall ensure that the individual and his  
 2742 or her guardian, guardian advocate, health care surrogate or  
 2743 proxy, or representative are informed patient and the patient's  
 2744 guardian or representative shall be informed by the court of the  
 2745 right to an independent expert examination. If the individual  
 2746 patient cannot afford such an examination, the court shall  
 2747 ensure that one is provided, as otherwise provided for by law.  
 2748 The independent expert's report is confidential and not  
 2749 discoverable, unless the expert is ~~to be~~ called as a witness for  
 2750 the individual patient at the hearing. The testimony in the  
 2751 hearing must be ~~given~~ under oath, and the proceedings must be  
 2752 recorded. The individual patient may refuse to testify at the  
 2753 hearing.

2754 4. Consistent with the notice provisions in s. 394.4599,  
 2755 the court shall allow testimony from persons, including family

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2756 members, deemed by the court to be relevant regarding the  
 2757 individual's prior history and how that prior history relates to  
 2758 the individual's current condition.

2759 (b) If the court concludes that the individual patient  
 2760 meets the criteria for involuntary services inpatient placement,  
 2761 it may order that the individual patient be transferred to a  
 2762 treatment facility or, if the individual patient is at a  
 2763 treatment facility, that the individual patient be retained  
 2764 there or be treated at any other appropriate facility, or that  
 2765 the individual patient receive services, on an involuntary  
 2766 basis, for up to 90 days. However, any order for involuntary  
 2767 mental health services in a treatment facility may be for up to  
 2768 6 months. The order ~~must~~ shall specify the nature and extent of  
 2769 the individual's patient's mental illness. The court may not  
 2770 order an individual with traumatic brain injury or dementia who  
 2771 lacks a co-occurring mental illness to be involuntarily placed  
 2772 in a state treatment facility. The facility shall discharge the  
 2773 individual a patient any time the individual patient no longer  
 2774 meets the criteria for involuntary inpatient placement, unless  
 2775 the individual patient has transferred to voluntary status.

2776 (c) The court may not enter an order of involuntary  
 2777 inpatient services in a state treatment facility for an  
 2778 individual with dementia, Alzheimer's disease, or traumatic  
 2779 brain-injury who lacks a co-occurring mental illness.

2780 (d) An individual may be ordered to involuntary services on  
 2781 an outpatient basis if found to meet the criteria in s.  
 2782 394.467(1) and upon a finding of the court by clear and  
 2783 convincing evidence based upon a clinical determination that the  
 2784 individual is unlikely to survive safely in the community

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2785 without supervision and that the individual is in need of such  
 2786 services to prevent a relapse or deterioration that would likely  
 2787 result in serious harm to the individual or others.

2788 1. The court may not order involuntary services on an  
 2789 outpatient basis if the service is not available, or if there is  
 2790 no space available in the service for the individual, or if  
 2791 funding is not available. After the order for services is  
 2792 entered, the service provider and the individual may modify  
 2793 provisions of the service plan. For any material modification of  
 2794 the service plan to which the individual or the individual's  
 2795 guardian advocate, if appointed, agree, the service provider  
 2796 shall send notice of the modification to the court. Any material  
 2797 modifications of the service plan which are contested by the  
 2798 individual or the guardian advocate must be approved or  
 2799 disapproved by the court consistent with subsection (3).

2800 2. If, in the clinical judgment of a physician, the  
 2801 individual has failed or has refused to comply with the  
 2802 outpatient services ordered by the court, and, in the clinical  
 2803 judgment of the physician, efforts were made to solicit  
 2804 compliance and the individual appears to meet the criteria for  
 2805 involuntary examination, the individual may be brought to a  
 2806 receiving facility pursuant to s. 394.463. If, after  
 2807 examination, the individual does not meet the criteria for  
 2808 involuntary services under this section, the individual must be  
 2809 discharged from the receiving facility. The involuntary services  
 2810 order shall remain in effect unless the service provider  
 2811 determines that the individual no longer meets the criteria for  
 2812 involuntary services or until the order expires. The service  
 2813 provider must determine whether modifications should be made to

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2814 the existing treatment plan and must attempt to continue to  
 2815 engage the individual in services. For any material modification  
 2816 of the service plan to which the individual or the individual's  
 2817 guardian advocate, if appointed, does agree, the service  
 2818 provider shall send notice of the modification to the court. Any  
 2819 material modifications of the service plan which are contested  
 2820 by the individual or his or her guardian advocate, if appointed,  
 2821 must be approved or disapproved by the court consistent with  
 2822 subsection (3).

2823 (e)-(e) If at any time before the conclusion of the hearing  
 2824 on involuntary services ~~inpatient placement~~ it appears to the  
 2825 court that the individual ~~person~~ does not meet the criteria for  
 2826 involuntary services ~~inpatient placement~~ under this section, but  
 2827 ~~instead meets the criteria for involuntary outpatient services,~~  
 2828 ~~the court may order the person evaluated for involuntary~~  
 2829 ~~outpatient services pursuant to s. 394.4655. The petition and~~  
 2830 ~~hearing procedures set forth in s. 394.4655 shall apply. If the~~  
 2831 ~~person~~ instead meets the criteria for involuntary assessment,  
 2832 protective custody, or involuntary admission pursuant to s.  
 2833 397.675, then the court may order the person to be admitted for  
 2834 involuntary assessment for a period of 5 days pursuant to s.  
 2835 397.6811. Thereafter, all proceedings are governed by chapter  
 2836 397.

2837 (f)-(d) At the hearing on involuntary services ~~inpatient~~  
 2838 ~~placement~~, the court shall consider testimony and evidence  
 2839 regarding the individual's ~~patient's~~ competence to consent to  
 2840 treatment. If the court finds that the individual ~~patient~~ is  
 2841 incompetent to consent to treatment, it shall appoint a guardian  
 2842 advocate as provided in s. 394.4598.

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2843 (g)~~(e)~~ The administrator of the petitioning facility shall  
 2844 provide a copy of the court order and adequate documentation of  
 2845 an individual's ~~a patient's~~ mental illness to the administrator  
 2846 of a treatment facility if the individual patient is ordered for  
 2847 involuntary ~~services inpatient placement, whether by civil or~~  
 2848 ~~criminal court~~. The documentation must include any advance  
 2849 directives made by the individual patient, a psychiatric  
 2850 evaluation of the individual patient, and any evaluations of the  
 2851 individual patient performed by a psychiatric nurse, a ~~clinical~~  
 2852 psychologist, a marriage and family therapist, a mental health  
 2853 counselor, or a clinical social worker. The administrator of a  
 2854 treatment facility may refuse admission to an individual any  
 2855 ~~patient~~ directed to its facilities on an involuntary basis,  
 2856 whether by civil or criminal court order, who is not accompanied  
 2857 by adequate orders and documentation.

2858 (7) PROCEDURE FOR CONTINUED INVOLUNTARY SERVICES INPATIENT  
 2859 PLACEMENT.-

2860 (a) Hearings on petitions for continued involuntary  
 2861 services inpatient placement of an individual placed at any  
 2862 treatment facility are administrative hearings and must be  
 2863 conducted in accordance with s. 120.57(1), except that any order  
 2864 entered by the administrative law judge is final and subject to  
 2865 judicial review in accordance with s. 120.68. Orders concerning  
 2866 individuals patients committed after successfully pleading not  
 2867 guilty by reason of insanity are governed by s. 916.15.

2868 1.~~(b)~~ If the individual patient continues to meet the  
 2869 criteria for involuntary services inpatient placement and is  
 2870 placed in being treated at a treatment facility, the  
 2871 administrator shall, before the expiration of the period the

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2872 treatment facility is authorized to retain the individual  
 2873 ~~patient~~, file a petition requesting authorization for continued  
 2874 involuntary ~~services inpatient placement~~. The request must be  
 2875 accompanied by a statement from the individual's patient's  
 2876 physician, psychiatrist, psychiatric nurse, or ~~clinical~~  
 2877 psychologist justifying the request, a brief description of the  
 2878 individual's patient's treatment during the time he or she was  
 2879 involuntarily placed, and an individualized plan of continued  
 2880 treatment. The state attorney for the circuit in which the  
 2881 individual is located shall represent the state, rather than the  
 2882 petitioning facility administrator, as the real party in  
 2883 interest in the proceeding. Notice of the hearing must be  
 2884 provided ~~as provided~~ in accordance with s. 394.4599. If an  
 2885 individual's attendance at the hearing is voluntarily waived,  
 2886 the administrative law judge must determine that the waiver is  
 2887 knowing, intelligent, and voluntary before waiving the presence  
 2888 of the individual from all or a portion of the hearing.  
 2889 Alternatively, if an individual's a patient's attendance at the  
 2890 hearing is voluntarily waived, the administrative law judge must  
 2891 determine that the waiver is knowing and voluntary before  
 2892 waiving the presence of the individual patient from all or a  
 2893 portion of the hearing. Alternatively, if at the hearing the  
 2894 administrative law judge finds that attendance at the hearing is  
 2895 not consistent with the individual's best interests of the  
 2896 ~~patient~~, the administrative law judge may waive the presence of  
 2897 the individual patient from all or any portion of the hearing,  
 2898 unless the individual patient, through counsel, objects to the  
 2899 waiver of presence. The testimony in the hearing must be under  
 2900 oath, and the proceedings must be recorded.

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2901 ~~2.(e)~~ Unless the individual patient is otherwise  
 2902 represented or is ineligible, he or she shall be represented at  
 2903 the hearing on the petition for continued involuntary services  
 2904 ~~inpatient placement~~ by the public defender of the circuit in  
 2905 which the facility is located.

2906 3. The Division of Administrative Hearings shall ensure  
 2907 that the individual who is the subject of the petition and his  
 2908 or her guardian, guardian advocate, health care surrogate or  
 2909 proxy, or representative are informed of the individual's right  
 2910 to an independent expert examination. If the individual cannot  
 2911 afford such an examination, the court shall ensure that one is  
 2912 provided as otherwise provided for by law.

2913 4.(d) If at a hearing it is shown that the individual  
 2914 patient continues to meet the criteria for involuntary services  
 2915 ~~inpatient placement~~, the administrative law judge shall sign the  
 2916 order for continued involuntary services inpatient placement for  
 2917 up to 90 days. However, any order for involuntary mental health  
 2918 services in a treatment facility may be for up to 6 months. The  
 2919 same procedure must shall be repeated before the expiration of  
 2920 each additional period the individual patient is retained.

2921 5.(e) If continued involuntary services inpatient placement  
 2922 is necessary for an individual a patient admitted while serving  
 2923 a criminal sentence, but his or her sentence is about to expire,  
 2924 or for a minor involuntarily placed, but who is about to reach  
 2925 the age of 18, the administrator shall petition the  
 2926 administrative law judge for an order authorizing continued  
 2927 involuntary services inpatient placement.

2928 6.(f) If the individual patient has been previously found  
 2929 incompetent to consent to treatment, the administrative law

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2930 judge shall consider testimony and evidence regarding the  
 2931 individual's patient's competence. If the administrative law  
 2932 judge finds evidence that the individual patient is now  
 2933 competent to consent to treatment, the ~~administrative law~~ judge  
 2934 may issue a recommended order to the court that found the  
 2935 individual patient incompetent to consent to treatment that the  
 2936 individual's patient's competence be restored and that any  
 2937 guardian advocate previously appointed be discharged.

2938 ~~7.(g)~~ If the individual patient has been ordered to undergo  
 2939 involuntary services inpatient placement and has previously been  
 2940 found incompetent to consent to treatment, the court shall  
 2941 consider testimony and evidence regarding the individual's  
 2942 patient's incompetence. If the individual's patient's competency  
 2943 to consent to treatment is restored, the discharge of the  
 2944 guardian advocate shall be governed by s. 394.4598.

2945  
 2946 The procedure required in this paragraph subsection must be  
 2947 followed before the expiration of each additional period the  
 2948 individual is patient is involuntarily receiving involuntary  
 2949 services.

2950 (b) A hearing on a petition for continued involuntary  
 2951 services of an individual placed at a receiving facility or  
 2952 nonstate treatment facility, to extend the current services or  
 2953 to modify the involuntary services order to authorize services  
 2954 in any state treatment facility, are not administrative  
 2955 hearings.

2956 1. If such an individual continues to meet the criteria for  
 2957 involuntary services, the service provider shall, before the  
 2958 expiration of the period during which the services are ordered,

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2959 file in the circuit court a petition for continued involuntary  
 2960 services. The petition must be filed no later than one week  
 2961 before the expiration of that current involuntary period, unless  
 2962 the order for services was for 30 days or less, in which case  
 2963 the petition must be filed within a reasonable time before the  
 2964 expiration of the current involuntary service order.

2965 2. The existing involuntary service order remains in effect  
 2966 until disposition of the petition for continued involuntary  
 2967 service.

2968 3. The petition must be accompanied by a statement from the  
 2969 individual's physician or psychologist justifying the request, a  
 2970 brief description of the individual's treatment during the time  
 2971 he or she was involuntarily served, and a personalized plan of  
 2972 continued services.

2973 4. Within 1 court working day after the filing of a  
 2974 petition for continued involuntary services, the court shall  
 2975 appoint the public defender to represent the individual who is  
 2976 the subject of the petition, unless the individual is otherwise  
 2977 represented by counsel. The clerk of the court shall immediately  
 2978 notify the public defender of such appointment. The public  
 2979 defender shall represent the individual until the petition is  
 2980 dismissed, the court order expires, or the individual is  
 2981 discharged from involuntary status. An attorney representing the  
 2982 individual must have access to the individual, witnesses, and  
 2983 records relevant to the presentation of the individual's case  
 2984 and shall represent the interests of the individual, regardless  
 2985 of the source of payment to the attorney.

2986 5. The court shall ensure that the individual who is the  
 2987 subject of the petition and his or her guardian, guardian

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2988 advocate, health care surrogate or proxy, or representative are  
 2989 informed of the individual's right to an independent expert  
 2990 examination. If the individual cannot afford such an  
 2991 examination, the court shall ensure that one is provided, as  
 2992 otherwise provided for by law.

2993 6. Hearings on petitions for continued involuntary services  
 2994 are before the circuit court. The court may appoint a magistrate  
 2995 to preside at the hearing. The procedures for obtaining an order  
 2996 pursuant to this paragraph must be in accordance with  
 2997 subsections (4), (5), and (6).

2998 7. Notice of the hearing shall be provided in accordance  
 2999 with s. 394.4599. The individual being served and the  
 3000 individual's attorney may agree to a period of continued  
 3001 involuntary services without a court hearing, unless the  
 3002 petition for continued services seeks to authorize services in  
 3003 any state treatment facility.

3004 8. The same procedure must be repeated before the  
 3005 expiration of each additional period the individual being served  
 3006 is involuntarily served.

3007 9. If the individual who has been ordered to undergo  
 3008 involuntary services has previously been found incompetent to  
 3009 consent to treatment, the court shall consider testimony and  
 3010 evidence regarding the individual's competence. Section 394.4598  
 3011 governs the discharge of the guardian advocate if the  
 3012 individual's competency to consent to treatment has been  
 3013 restored.

3014 (8) RETURN TO FACILITY.—If an individual a patient  
 3015 involuntarily held at a treatment facility under this part  
 3016 leaves the facility without the administrator's authorization,

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3017 the administrator may authorize a search for the individual  
 3018 ~~patient~~ and his or her return to the facility. The administrator  
 3019 may request the assistance of a law enforcement agency in this  
 3020 regard.

3021 Section 22. Section 394.46715, Florida Statutes, is amended  
 3022 to read:

3023 394.46715 Rulemaking authority.—The department may adopt  
 3024 rules to administer this part. These rules are for the purpose  
 3025 of protecting the health, safety, and well-being of individuals  
 3026 examined, treated, or placed under this part.

3027 Section 23. Section 394.4672, Florida Statutes, is amended  
 3028 to read:

3029 394.4672 Procedure for services ~~placement~~ of veteran with  
 3030 federal agency.—

3031 (1) A facility owned, operated, or administered by the  
 3032 United States Department of Veterans Affairs that provides  
 3033 mental health services shall have authority as granted by the  
 3034 Department of Veterans' Affairs to:

3035 (a) Initiate and conduct involuntary examination pursuant  
 3036 to s. 394.463.

3037 (b) Provide voluntary admission and treatment pursuant to  
 3038 s. 394.4625.

3039 (c) Petition for involuntary services pursuant to s.  
 3040 394.467.

3041 (2)(1) If the court determines that an individual meets the  
 3042 criteria for involuntary service and he or she ~~Whenever it is~~  
 3043 ~~determined by the court that a person meets the criteria for~~  
 3044 ~~involuntary placement and it appears that such person is~~  
 3045 eligible for care or treatment by the United States Department

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3046 of Veterans Affairs or other agency of the United States  
 3047 Government, the court, upon receipt of documentation a  
 3048 ~~certificate~~ from the United States Department of Veterans  
 3049 Affairs or ~~another such other~~ agency showing that facilities are  
 3050 available and that the individual person is eligible for care or  
 3051 treatment therein, may place that individual person with the  
 3052 United States Department of Veterans Affairs or other federal  
 3053 agency. The individual person whose placement is sought shall be  
 3054 personally served with notice of the pending involuntary service  
 3055 placement proceeding in the manner as provided in this part.~~7~~  
 3056 ~~and nothing in~~ This section does not ~~shall~~ affect the  
 3057 individual's ~~his or her~~ right to appear and be heard in the  
 3058 proceeding. Upon being placed, the individual is placement, the  
 3059 ~~person shall be~~ subject to the ~~rules and~~ regulations of the  
 3060 United States Department of Veterans Affairs or other federal  
 3061 agency.

3062 (3)(2) The judgment or order for services issued of  
 3063 ~~placement~~ by a court of competent jurisdiction of another state  
 3064 or of the District of Columbia, which places an individual  
 3065 ~~placing a person~~ with the United States Department of Veterans  
 3066 Affairs or other federal agency for care or treatment, ~~has,~~  
 3067 ~~shall have~~ the same force and effect in this state as in the  
 3068 jurisdiction of the court entering the judgment or making the  
 3069 order.~~7~~ ~~and~~ The courts of the placing state or of the District  
 3070 of Columbia shall retain ~~be deemed to have retained~~ jurisdiction  
 3071 over the individual of the person so placed. Consent is ~~hereby~~  
 3072 given to the application of the law of the placing state or  
 3073 district with respect to the authority of the chief officer of  
 3074 any facility of the United States Department of Veterans Affairs

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3075 or other federal agency operated in this state to retain custody  
3076 or to transfer, parole, or discharge the individual person.

3077 (4)(3) Upon receipt of documentation from a certificate of  
3078 the United States Department of Veterans Affairs or another such  
3079 ~~other~~ federal agency that facilities are available for the care  
3080 or treatment of individuals who have mental illness and that the  
3081 individual mentally ill persons and that the person is eligible  
3082 for that care or treatment, the administrator of the receiving  
3083 or treatment facility may ~~cause the transfer of~~ that individual  
3084 person to the United States Department of Veterans Affairs or  
3085 other federal agency. Upon ~~effecting~~ such transfer, the  
3086 committing court shall be notified by the transferring agency.  
3087 An individual may not be transferred ~~No person shall be~~  
3088 ~~transferred to the United States Department of Veterans Affairs~~  
3089 ~~or other federal agency~~ if he or she is confined pursuant to the  
3090 conviction of any felony or misdemeanor or if he or she has been  
3091 acquitted of the charge solely on the ground of insanity, unless  
3092 before ~~prior to~~ transfer the court placing the individual such  
3093 ~~person~~ enters an order for the transfer after appropriate motion  
3094 and hearing and without objection by the United States  
3095 Department of Veterans Affairs.

3096 (5)(4) An individual ~~Any person~~ transferred as provided in  
3097 this section shall be deemed to be placed with the United States  
3098 Department of Veterans Affairs or other federal agency pursuant  
3099 to the original order placement.

3100 Section 24. Section 394.4685, Florida Statutes, is amended  
3101 to read:

3102 394.4685 Transfer of patients among facilities.-

3103 (1) TRANSFER BETWEEN PUBLIC FACILITIES.-

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3104 (a) An individual ~~A patient~~ who has been accepted at  
3105 ~~admitted to~~ a public receiving facility, or his or her the  
3106 family member, guardian, ~~or~~ guardian advocate, or health care  
3107 surrogate or proxy of such patient, may request the transfer of  
3108 the individual patient to another public receiving facility. An  
3109 individual ~~A patient~~ who has been accepted at ~~admitted to~~ a  
3110 public treatment facility, or his or her the family member,  
3111 guardian, ~~or~~ guardian advocate, or health care surrogate or  
3112 proxy of such patient, may request the transfer of the  
3113 individual patient to another public treatment facility.  
3114 Depending on the medical treatment or mental health treatment  
3115 needs of the individual patient and the availability of  
3116 appropriate facility resources, the individual patient may be  
3117 transferred at the discretion of the department. If the  
3118 department approves the transfer of an individual on involuntary  
3119 status, notice in accordance with involuntary patient, notice  
3120 ~~according to the provisions of s. 394.4599~~ must be given before  
3121 ~~shall be given prior to~~ the transfer by the transferring  
3122 facility. The department shall respond to the request for  
3123 transfer within 2 working days after receipt of the request by  
3124 the facility administrator.

3125 (b) ~~If when~~ required by the medical treatment or mental  
3126 health treatment needs of the individual patient or the  
3127 efficient use utilization of a public receiving or public  
3128 treatment facility, an individual a patient may be transferred  
3129 from one receiving facility to another, or from one treatment  
3130 facility to another, ~~at the department's discretion~~, or, with  
3131 the express and informed consent of the individual or the  
3132 individual's guardian, guardian advocate, or health care

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3133 ~~surrogate or proxy patient or the patient's guardian or guardian~~  
 3134 ~~advocate, to a facility in another state. Notice in accordance~~  
 3135 ~~with according to the provisions of s. 394.4599 must shall be~~  
 3136 ~~given before prior to the transfer by the transferring facility.~~  
 3137 ~~If prior notice is not possible, notice of the transfer shall be~~  
 3138 ~~provided as soon as practicable after the transfer.~~

## (2) TRANSFER FROM PUBLIC TO PRIVATE FACILITIES.-

3140 (a) An individual ~~A patient~~ who has been accepted at  
 3141 ~~admitted to~~ a public receiving or public treatment facility and  
 3142 has requested, ~~either personally or through his or her guardian,~~  
 3143 ~~or guardian advocate, or health care surrogate or proxy,~~ and is  
 3144 able to pay for treatment in a private facility shall be  
 3145 transferred at the individual's ~~patient's~~ expense to a private  
 3146 facility upon acceptance of the individual ~~patient~~ by the  
 3147 private facility.

3148 (b) A public receiving facility initiating the a patient  
 3149 transfer of an individual to a licensed hospital for acute care  
 3150 mental health services not accessible through the public  
 3151 receiving facility shall notify the hospital of such transfer  
 3152 and send the hospital all records relating to the emergency  
 3153 psychiatric or medical condition.

## (3) TRANSFER FROM PRIVATE TO PUBLIC FACILITIES.-

3155 (a) An individual or the individual's ~~A patient or the~~  
 3156 ~~patient's guardian, or guardian advocate, or health care~~  
 3157 surrogate or proxy may request the transfer of the individual  
 3158 ~~patient~~ from a private to a public facility, and the individual  
 3159 ~~patient~~ may be so transferred upon acceptance of the individual  
 3160 ~~patient~~ by the public facility.

3161 (b) A private facility may request the transfer of an

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3162 individual a patient from the facility to a public facility, and  
 3163 the individual ~~patient~~ may be so transferred upon acceptance of  
 3164 the individual ~~patient~~ by the public facility. The cost of such  
 3165 transfer is shall be the responsibility of the transferring  
 3166 facility.

3167 (c) A public facility must respond to a request for the  
 3168 transfer of an individual a patient within 24 hours ~~2 working~~  
 3169 ~~days~~ after receipt of the request.

## (4) TRANSFER BETWEEN PRIVATE FACILITIES.-

3171 (a) An individual being held ~~A patient~~ in a private  
 3172 facility or his or her the patient's ~~guardian, or~~ guardian  
 3173 ~~advocate, or health care surrogate or proxy~~ may request the  
 3174 transfer of the individual ~~patient~~ to another private facility  
 3175 at any time, and the individual ~~patient~~ shall be transferred  
 3176 upon acceptance of the individual ~~patient~~ by the facility to  
 3177 which transfer is sought.

3178 (b) A private facility may request the transfer of an  
 3179 individual from the facility to another private facility, and  
 3180 the individual may be transferred upon acceptance of the  
 3181 individual by the facility to which the individual is being  
 3182 transferred.

3183 Section 25. Section 394.469, Florida Statutes, is amended  
 3184 to read:

3185 394.469 Discharge ~~from of~~ involuntary services ~~patients.~~

3186 (1) POWER TO DISCHARGE.-At any time an individual a patient  
 3187 is found to no longer meet the criteria for involuntary services  
 3188 ~~placement,~~ the administrator shall:

3189 (a) Discharge the individual ~~patient,~~ ~~unless the patient is~~  
 3190 ~~under a criminal charge, in which case the patient shall be~~

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3191 transferred to the custody of the appropriate law enforcement  
3192 officer;

3193 (b) Transfer the individual patient to voluntary status on  
3194 the administrator's ~~his or her~~ own authority or at the  
3195 individual's ~~patient's~~ request, unless the individual is patient  
3196 ~~is under criminal charge or~~ adjudicated incapacitated;

3197 (c) Discharge the individual to the custody of a law  
3198 enforcement officer, if the individual is currently charged with  
3199 any crime and has not been released from law enforcement custody  
3200 by posting of a bond, or by a pretrial conditional release or by  
3201 other judicial release; or

3202 (d)(e) Place an improved individual patient, except  
3203 individuals described in paragraph (c) a patient under a  
3204 criminal charge, on convalescent status in the care of a  
3205 community facility.

3206 (2) NOTICE.—Notice of discharge or transfer of an  
3207 individual must be provided in accordance with a patient shall  
3208 be given as provided in s. 394.4599.

3209 Section 26. Section 394.473, Florida Statutes, is amended  
3210 to read:

3211 394.473 Attorney ~~Attorney's~~ fee; expert witness fee.—

3212 (1) ~~In the case of an indigent person for whom~~ An attorney  
3213 ~~is appointed to represent an individual~~ pursuant to the  
3214 ~~provisions of this part, the attorney~~ shall be compensated by  
3215 the state pursuant to s. 27.5304. A public defender appointed to  
3216 represent an indigent individual may not ~~In the case of an~~  
3217 ~~indigent person, the court may appoint a public defender. The~~  
3218 ~~public defender shall receive no~~ additional compensation other  
3219 than that usually paid his or her office.

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3220 (2) If an indigent individual's case requires ~~In the case~~  
3221 ~~of an indigent person for whom~~ expert testimony is required in a  
3222 court hearing pursuant to the ~~provisions of this part act,~~ the  
3223 expert shall be compensated by the state pursuant to s. 27.5303  
3224 or s. 27.5304, as applicable, unless the expert, ~~except one who~~  
3225 is classified as a full-time employee of the state or ~~who~~ is  
3226 receiving remuneration from the state for his or her time in  
3227 attendance at the hearing, ~~shall be compensated by the state~~  
3228 ~~pursuant to s. 27.5304.~~

3229 Section 27. Section 394.475, Florida Statutes, is amended  
3230 to read:

3231 394.475 Acceptance, examination, and involuntary services  
3232 placement of Florida residents from out-of-state mental health  
3233 authorities.—

3234 (1) Upon the request of the state mental health authority  
3235 of another state, the department may ~~is authorized to accept an~~  
3236 individual as a patient, for up to a period of not more than 15  
3237 days, a person who is and has been a bona fide resident of this  
3238 state for at least a period of not less than 1 year.

3239 (2) An individual ~~Any person~~ received pursuant to  
3240 subsection (1) shall be examined by the staff of the state  
3241 facility where the individual ~~such patient~~ has been admitted  
3242 ~~accepted, which examination shall be completed~~ during the 15-day  
3243 period.

3244 (3) If, upon examination, the individual ~~such a person~~  
3245 requires continued involuntary services placement, a petition  
3246 for a hearing regarding involuntary services placement shall be  
3247 filed with the court of the county where ~~wherein~~ the treatment  
3248 facility receiving the individual patient is located or the

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3249 county where the individual patient is a resident.

3250 (4) During the pendency of the examination period and the  
3251 pendency of the involuntary services placement proceedings, an  
3252 individual such person may continue to be held in the treatment  
3253 facility unless the court having jurisdiction enters an order to  
3254 the contrary.

3255 Section 28. Section 394.4785, Florida Statutes, is amended  
3256 to read:

3257 394.4785 Children and adolescents; admission and services  
3258 placement in mental health facilities.-

3259 (1) A child or adolescent ~~as~~ defined as a minor in s.  
3260 394.455(31) in s. 394.492 may not be admitted to a state-owned  
3261 or state-operated mental health treatment facility. A minor  
3262 child may be admitted pursuant to s. 394.4625, s. 394.463, or s.  
3263 394.467 to a crisis stabilization unit or a residential  
3264 treatment center licensed under this chapter or a hospital  
3265 licensed under chapter 395. The treatment center, unit, or  
3266 hospital must provide the least restrictive available treatment  
3267 that is appropriate to the individual needs of the minor child  
3268 ~~or adolescent~~ and must adhere to the guiding principles, system  
3269 of care, and service planning provisions of ~~contained in~~ part  
3270 III of this chapter.

3271 (2) A minor who is younger than 14 years of age person  
3272 ~~under the age of 14~~ who is admitted to a ~~any~~ hospital licensed  
3273 ~~pursuant to chapter 395~~ may not be admitted to a bed in a room  
3274 or ward with an adult patient in a mental health unit or share  
3275 common areas with an adult patient in a mental health unit.  
3276 However, a minor person 14 years of age or older may be admitted  
3277 to a bed in a room or ward in the mental health unit with an

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3278 adult if a ~~the~~ admitting physician documents in the clinical  
3279 case record that the services are ~~such placement is~~ medically  
3280 indicated or for reasons of safety. ~~The~~ Such placement shall be  
3281 reviewed by a ~~the~~ attending physician or a designee or on-call  
3282 physician each day and documented in the clinical case record.

3283 Section 29. Section 394.4786, Florida Statutes, is  
3284 repealed.

3285 Section 30. Section 394.47865, Florida Statutes, is  
3286 repealed.

3287 Section 31. Section 394.4787, Florida Statutes, is  
3288 repealed.

3289 Section 32. Section 394.4788, Florida Statutes, is  
3290 repealed.

3291 Section 33. Section 394.4789, Florida Statutes, is  
3292 repealed.

3293 Section 34. Paragraph (a) of subsection (5) of section  
3294 20.425, Florida Statutes, is amended to read:

3295 20.425 Agency for Health Care Administration; trust funds.-  
3296 The following trust funds shall be administered by the Agency  
3297 for Health Care Administration:

3298 (5) Public Medical Assistance Trust Fund.

3299 (a) Funds to be credited to and uses of the trust fund  
3300 shall be administered in accordance with s. ~~the provisions of~~  
3301 ~~ss. 394.4786 and 409.918.~~

3302 Section 35. Paragraph (a) of subsection (3) and subsection  
3303 (6) of section 39.407, Florida Statutes, are amended to read:

3304 39.407 Medical, psychiatric, and psychological examination  
3305 and treatment of child; physical, mental, or substance abuse  
3306 examination of person with or requesting child custody.-

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3307 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.  
 3308 or paragraph (e), before the department provides psychotropic  
 3309 medications to a child in its custody, the prescribing physician  
 3310 shall attempt to obtain express and informed consent, as defined  
 3311 in s. 394.455(15) and as described in s. 394.459(3) ~~(a)~~, from the  
 3312 child's parent or legal guardian. The department must take steps  
 3313 necessary to facilitate the inclusion of the parent in the  
 3314 child's consultation with the physician. However, if the  
 3315 parental rights of the parent have been terminated, the parent's  
 3316 location or identity is unknown or cannot reasonably be  
 3317 ascertained, or the parent declines to give express and informed  
 3318 consent, the department may, after consultation with the  
 3319 prescribing physician, seek court authorization to provide the  
 3320 psychotropic medications to the child. Unless parental rights  
 3321 have been terminated and if it is possible to do so, the  
 3322 department shall continue to involve the parent in the  
 3323 decisionmaking process regarding the provision of psychotropic  
 3324 medications. If, at any time, a parent whose parental rights  
 3325 have not been terminated provides express and informed consent  
 3326 to the provision of a psychotropic medication, the requirements  
 3327 of this section that the department seek court authorization do  
 3328 not apply to that medication until such time as the parent no  
 3329 longer consents.

3330 2. Any time the department seeks a medical evaluation to  
 3331 determine the need to initiate or continue a psychotropic  
 3332 medication for a child, the department must provide to the  
 3333 evaluating physician all pertinent medical information known to  
 3334 the department concerning that child.

3335 (6) Children who are in the legal custody of the department

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3336 may be placed by the department, without prior approval of the  
 3337 court, in a residential treatment center licensed under s.  
 3338 394.875 or a hospital licensed under chapter 395 for residential  
 3339 mental health treatment only pursuant to this section or may be  
 3340 placed by the court in accordance with an order of involuntary  
 3341 examination or involuntary services placement ~~placement~~ entered pursuant  
 3342 to s. 394.463 or s. 394.467. All children placed in a  
 3343 residential treatment program under this subsection must have a  
 3344 guardian ad litem appointed.

3345 (a) As used in this subsection, the term:

3346 1. "Residential treatment" means placement for observation,  
 3347 diagnosis, or treatment of an emotional disturbance in a  
 3348 residential treatment center licensed under s. 394.875 or a  
 3349 hospital licensed under chapter 395.

3350 2. "Least restrictive alternative" means the treatment and  
 3351 conditions of treatment that, separately and in combination, are  
 3352 no more intrusive or restrictive of freedom than reasonably  
 3353 necessary to achieve a substantial therapeutic benefit or to  
 3354 protect the child or adolescent or others from physical injury.

3355 3. "Suitable for residential treatment" or "suitability"  
 3356 means a determination concerning a child or adolescent with an  
 3357 emotional disturbance as defined in s. 394.492(5) or a serious  
 3358 emotional disturbance as defined in s. 394.492(6) that each of  
 3359 the following criteria is met:

3360 a. The child requires residential treatment.

3361 b. The child is in need of a residential treatment program  
 3362 and is expected to benefit from mental health treatment.

3363 c. An appropriate, less restrictive alternative to  
 3364 residential treatment is unavailable.

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3365 (b) Whenever the department believes that a child in its  
 3366 legal custody is emotionally disturbed and may need residential  
 3367 treatment, an examination and suitability assessment must be  
 3368 conducted by a qualified evaluator who is appointed by the  
 3369 Agency for Health Care Administration. This suitability  
 3370 assessment must be completed before the placement of the child  
 3371 in a residential treatment center for emotionally disturbed  
 3372 children and adolescents or a hospital. The qualified evaluator  
 3373 must be a psychiatrist or a psychologist licensed in Florida who  
 3374 has at least 3 years of experience in the diagnosis and  
 3375 treatment of serious emotional disturbances in children and  
 3376 adolescents and who has no actual or perceived conflict of  
 3377 interest with any inpatient facility or residential treatment  
 3378 center or program.

3379 (c) Before a child is admitted under this subsection, the  
 3380 child shall be assessed for suitability for residential  
 3381 treatment by a qualified evaluator who has conducted a personal  
 3382 examination and assessment of the child and has made written  
 3383 findings that:

3384 1. The child appears to have an emotional disturbance  
 3385 serious enough to require residential treatment and is  
 3386 reasonably likely to benefit from the treatment.

3387 2. The child has been provided with a clinically  
 3388 appropriate explanation of the nature and purpose of the  
 3389 treatment.

3390 3. All available modalities of treatment less restrictive  
 3391 than residential treatment have been considered, and a less  
 3392 restrictive alternative that would offer comparable benefits to  
 3393 the child is unavailable.

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3394  
 3395 A copy of the written findings of the evaluation and suitability  
 3396 assessment must be provided to the department, to the guardian  
 3397 ad litem, and, if the child is a member of a Medicaid managed  
 3398 care plan, to the plan that is financially responsible for the  
 3399 child's care in residential treatment, all of whom must be  
 3400 provided with the opportunity to discuss the findings with the  
 3401 evaluator.

3402 (d) Immediately upon placing a child in a residential  
 3403 treatment program under this section, the department must notify  
 3404 the guardian ad litem and the court having jurisdiction over the  
 3405 child and must provide the guardian ad litem and the court with  
 3406 a copy of the assessment by the qualified evaluator.

3407 (e) Within 10 days after the admission of a child to a  
 3408 residential treatment program, the director of the residential  
 3409 treatment program or the director's designee must ensure that an  
 3410 individualized plan of treatment has been prepared by the  
 3411 program and has been explained to the child, to the department,  
 3412 and to the guardian ad litem, and submitted to the department.  
 3413 The child must be involved in the preparation of the plan to the  
 3414 maximum feasible extent consistent with his or her ability to  
 3415 understand and participate, and the guardian ad litem and the  
 3416 child's foster parents must be involved to the maximum extent  
 3417 consistent with the child's treatment needs. The plan must  
 3418 include a preliminary plan for residential treatment and  
 3419 aftercare upon completion of residential treatment. The plan  
 3420 must include specific behavioral and emotional goals against  
 3421 which the success of the residential treatment may be measured.  
 3422 A copy of the plan must be provided to the child, to the

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3423 guardian ad litem, and to the department.

3424 (f) Within 30 days after admission, the residential  
3425 treatment program must review the appropriateness and  
3426 suitability of the child's placement in the program. The  
3427 residential treatment program must determine whether the child  
3428 is receiving benefit toward the treatment goals and whether the  
3429 child could be treated in a less restrictive treatment program.  
3430 The residential treatment program shall prepare a written report  
3431 of its findings and submit the report to the guardian ad litem  
3432 and to the department. The department must submit the report to  
3433 the court. The report must include a discharge plan for the  
3434 child. The residential treatment program must continue to  
3435 evaluate the child's treatment progress every 30 days thereafter  
3436 and must include its findings in a written report submitted to  
3437 the department. The department may not reimburse a facility  
3438 until the facility has submitted every written report that is  
3439 due.

3440 (g)1. The department must submit, at the beginning of each  
3441 month, to the court having jurisdiction over the child, a  
3442 written report regarding the child's progress toward achieving  
3443 the goals specified in the individualized plan of treatment.

3444 2. The court must conduct a hearing to review the status of  
3445 the child's residential treatment plan no later than 3 months  
3446 after the child's admission to the residential treatment  
3447 program. An independent review of the child's progress toward  
3448 achieving the goals and objectives of the treatment plan must be  
3449 completed by a qualified evaluator and submitted to the court  
3450 before its 3-month review.

3451 3. For any child in residential treatment at the time a

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3452 judicial review is held pursuant to s. 39.701, the child's  
3453 continued placement in residential treatment must be a subject  
3454 of the judicial review.

3455 4. If at any time the court determines that the child is  
3456 not suitable for continued residential treatment, the court  
3457 shall order the department to place the child in the least  
3458 restrictive setting that is best suited to meet his or her  
3459 needs.

3460 (h) After the initial 3-month review, the court must  
3461 conduct a review of the child's residential treatment plan every  
3462 90 days.

3463 (i) The department must adopt rules for implementing  
3464 timeframes for the completion of suitability assessments by  
3465 qualified evaluators and a procedure that includes timeframes  
3466 for completing the 3-month independent review by the qualified  
3467 evaluators of the child's progress toward achieving the goals  
3468 and objectives of the treatment plan which review must be  
3469 submitted to the court. The Agency for Health Care  
3470 Administration must adopt rules for the registration of  
3471 qualified evaluators, the procedure for selecting the evaluators  
3472 to conduct the reviews required under this section, and a  
3473 reasonable, cost-efficient fee schedule for qualified  
3474 evaluators.

3475 Section 36. Subsections (5) and (6) of section 394.492,  
3476 Florida Statutes, are amended to read:

3477 394.492 Definitions.—As used in ss. 394.490-394.497, the  
3478 term:

3479 (5) "Child or adolescent who has an emotional disturbance"  
3480 means a person under 18 years of age who is diagnosed with a

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3481 mental, emotional, or behavioral disorder of sufficient duration  
 3482 to meet one of the diagnostic categories specified in the most  
 3483 recent edition of the Diagnostic and Statistical Manual of the  
 3484 American Psychiatric Association, but who does not exhibit  
 3485 behaviors that substantially interfere with or limit his or her  
 3486 role or ability to function in the family, school, or community.  
 3487 The emotional disturbance must not be considered to be a  
 3488 temporary response to a stressful situation. The term does not  
 3489 include a child or adolescent who meets the criteria for  
 3490 involuntary services placement under s. 394.467(1).

3491 (6) "Child or adolescent who has a serious emotional  
 3492 disturbance or mental illness" means a person under 18 years of  
 3493 age who:

3494 (a) Is diagnosed as having a mental, emotional, or  
 3495 behavioral disorder that meets one of the diagnostic categories  
 3496 specified in the most recent edition of the Diagnostic and  
 3497 Statistical Manual of Mental Disorders of the American  
 3498 Psychiatric Association; and

3499 (b) Exhibits behaviors that substantially interfere with or  
 3500 limit his or her role or ability to function in the family,  
 3501 school, or community, which behaviors are not considered to be a  
 3502 temporary response to a stressful situation.

3503  
 3504 The term includes a child or adolescent who meets the criteria  
 3505 for involuntary services placement under s. 394.467(1).

3506 Section 37. Paragraphs (a) and (c) of subsection (3) of  
 3507 section 394.495, Florida Statutes, are amended to read:

3508 394.495 Child and adolescent mental health system of care;  
 3509 programs and services.-

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3510 (3) Assessments must be performed by:

3511 (a) A professional as defined in s. 394.455(7), (33), (36),  
 3512 or (37) 394.455(5), (7), (32), (35), or (36);

3513 (c) A person who is under the direct supervision of a  
 3514 qualified professional as defined in s. 394.455(7), (33), (36),  
 3515 or (37) 394.455(5), (7), (32), (35), or (36) or a professional  
 3516 licensed under chapter 491.

3517 Section 38. Subsection (5) of section 394.496, Florida  
 3518 Statutes, is amended to read:

3519 394.496 Service planning.-

3520 (5) A professional as defined in s. 394.455(7), (33), (36),  
 3521 or (37) 394.455(5), (7), (32), (35), or (36) or a professional  
 3522 licensed under chapter 491 must be included among those persons  
 3523 developing the services plan.

3524 Section 39. Paragraph (b) of subsection (10) of section  
 3525 394.9082, Florida Statutes, is amended to read:

3526 394.9082 Behavioral health managing entities.-

3527 (10) ACUTE CARE SERVICES UTILIZATION DATABASE.-The  
 3528 department shall develop, implement, and maintain standards  
 3529 under which a managing entity shall collect utilization data  
 3530 from all public receiving facilities situated within its  
 3531 geographical service area and all detoxification and addictions  
 3532 receiving facilities under contract with the managing entity. As  
 3533 used in this subsection, the term "public receiving facility"  
 3534 means an entity that meets the licensure requirements of, and is  
 3535 designated by, the department to operate as a public receiving  
 3536 facility under s. 394.875 and that is operating as a licensed  
 3537 crisis stabilization unit.

3538 (b) A managing entity shall require providers specified in

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3539 paragraph (a) to submit data, in real time or at least daily, to  
 3540 the managing entity for:

3541 ~~1. All admissions and discharges of clients receiving~~  
 3542 ~~public receiving facility services who qualify as indigent, as~~  
 3543 ~~defined in s. 394.4787.~~

3544 1.2. All admissions and discharges of clients receiving  
 3545 substance abuse services in an addictions receiving facility or  
 3546 detoxification facility pursuant to parts IV and V of chapter  
 3547 397 who qualify as indigent.

3548 ~~2.3.~~ The current active census of total licensed and  
 3549 utilized beds, the number of beds purchased by the department,  
 3550 the number of clients qualifying as indigent who occupy any of  
 3551 those beds, the total number of unoccupied licensed beds,  
 3552 regardless of funding, and the number in excess of licensed  
 3553 capacity. Crisis units licensed for both adult and child use  
 3554 will report as a single unit.

3555 Section 40. Subsection (6) of section 394.9085, Florida  
 3556 Statutes, is amended to read:

3557 394.9085 Behavioral provider liability.—

3558 (6) For purposes of this section, the terms “detoxification  
 3559 services,” “addictions receiving facility,” and “receiving  
 3560 facility” have the same meanings as those provided in ss.  
 3561 397.311(25)(a)4., 397.311(25)(a)1., and 394.455(41) ~~394.455(39)~~,  
 3562 respectively.

3563 Section 41. Paragraph (b) of subsection (1) of section  
 3564 409.972, Florida Statutes, is amended to read:

3565 409.972 Mandatory and voluntary enrollment.—

3566 (1) The following Medicaid-eligible persons are exempt from  
 3567 mandatory managed care enrollment required by s. 409.965, and

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3568 may voluntarily choose to participate in the managed medical  
 3569 assistance program:

3570 (b) Medicaid recipients residing in residential commitment  
 3571 facilities operated through the Department of Juvenile Justice  
 3572 or a treatment facility as defined in s. 394.455(51)  
 3573 ~~394.455(47)~~.

3574 Section 42. Subsection (7) of section 744.2007, Florida  
 3575 Statutes, is amended to read:

3576 744.2007 Powers and duties.—

3577 (7) A public guardian may not commit a ward to a treatment  
 3578 facility, as defined in s. 394.455(51) ~~394.455(47)~~, without an  
 3579 involuntary placement proceeding as provided by law.

3580 Section 43. Paragraph (a) of subsection (2) of section  
 3581 790.065, Florida Statutes, is amended to read:

3582 790.065 Sale and delivery of firearms.—

3583 (2) Upon receipt of a request for a criminal history record  
 3584 check, the Department of Law Enforcement shall, during the  
 3585 licensee’s call or by return call, forthwith:

3586 (a) Review any records available to determine if the  
 3587 potential buyer or transferee:

3588 1. Has been convicted of a felony and is prohibited from  
 3589 receipt or possession of a firearm pursuant to s. 790.23;

3590 2. Has been convicted of a misdemeanor crime of domestic  
 3591 violence, and therefore is prohibited from purchasing a firearm;

3592 3. Has had adjudication of guilt withheld or imposition of  
 3593 sentence suspended on any felony or misdemeanor crime of  
 3594 domestic violence unless 3 years have elapsed since probation or  
 3595 any other conditions set by the court have been fulfilled or  
 3596 expunction has occurred; or

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3597 4. Has been adjudicated mentally defective or has been  
3598 committed to a mental institution by a court or as provided in  
3599 sub-sub-subparagraph b.(II), and as a result is prohibited by  
3600 state or federal law from purchasing a firearm.

3601 a. As used in this subparagraph, "adjudicated mentally  
3602 defective" means a determination by a court that a person, as a  
3603 result of marked subnormal intelligence, or mental illness,  
3604 incompetency, condition, or disease, is a danger to himself or  
3605 herself or to others or lacks the mental capacity to contract or  
3606 manage his or her own affairs. The phrase includes a judicial  
3607 finding of incapacity under s. 744.331(6) (a), an acquittal by  
3608 reason of insanity of a person charged with a criminal offense,  
3609 and a judicial finding that a criminal defendant is not  
3610 competent to stand trial.

3611 b. As used in this subparagraph, "committed to a mental  
3612 institution" means:

3613 (I) Involuntary commitment, commitment for mental  
3614 defectiveness or mental illness, and commitment for substance  
3615 abuse. The phrase includes involuntary services ~~inpatient~~  
3616 ~~placement as defined in s. 394.467, involuntary outpatient~~  
3617 ~~placement as defined in s. 394.4655,~~ involuntary assessment and  
3618 stabilization under s. 397.6818, and involuntary substance abuse  
3619 treatment under s. 397.6957, but does not include a person in a  
3620 mental institution for observation or discharged from a mental  
3621 institution based upon the initial review by the physician or a  
3622 voluntary admission to a mental institution; or

3623 (II) Notwithstanding sub-sub-subparagraph (I), voluntary  
3624 admission to a mental institution for outpatient or inpatient  
3625 treatment of a person who had an involuntary examination under

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3626 s. 394.463, where each of the following conditions have been  
3627 met:

3628 (A) An examining physician found that the person is an  
3629 imminent danger to himself or herself or others.

3630 (B) The examining physician certified that if the person  
3631 did not agree to voluntary treatment, a petition for involuntary  
3632 outpatient or inpatient treatment would have been filed under s.  
3633 394.463(2) (f) 3. ~~394.463(2) (i) 4.~~, or the examining physician  
3634 certified that a petition was filed and the person subsequently  
3635 agreed to voluntary treatment prior to a court hearing on the  
3636 petition.

3637 (C) Before agreeing to voluntary treatment, the person  
3638 received written notice of that finding and certification, and  
3639 written notice that as a result of such finding, he or she may  
3640 be prohibited from purchasing a firearm, and may not be eligible  
3641 to apply for or retain a concealed weapon or firearms license  
3642 under s. 790.06 and the person acknowledged such notice in  
3643 writing, in substantially the following form:

3644 "I understand that the doctor who examined me believes I am a  
3645 danger to myself or to others. I understand that if I do not  
3646 agree to voluntary treatment, a petition will be filed in court  
3647 to require me to receive involuntary treatment. I understand  
3648 that if that petition is filed, I have the right to contest it.  
3649 In the event a petition has been filed, I understand that I can  
3650 subsequently agree to voluntary treatment prior to a court  
3651 hearing. I understand that by agreeing to voluntary treatment in  
3652 either of these situations, I may be prohibited from buying  
3653 firearms and from applying for or retaining a concealed weapons  
3654 or firearms license until I apply for and receive relief from

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3655 that restriction under Florida law.”

3656 (D) A judge or a magistrate has, pursuant to sub-sub-  
3657 subparagraph c.(II), reviewed the record of the finding,  
3658 certification, notice, and written acknowledgment classifying  
3659 the person as an imminent danger to himself or herself or  
3660 others, and ordered that such record be submitted to the  
3661 department.

3662 c. In order to check for these conditions, the department  
3663 shall compile and maintain an automated database of persons who  
3664 are prohibited from purchasing a firearm based on court records  
3665 of adjudications of mental defectiveness or commitments to  
3666 mental institutions.

3667 (I) Except as provided in sub-sub-subparagraph (II), clerks  
3668 of court shall submit these records to the department within 1  
3669 month after the rendition of the adjudication or commitment.  
3670 Reports shall be submitted in an automated format. The reports  
3671 must, at a minimum, include the name, along with any known alias  
3672 or former name, the sex, and the date of birth of the subject.

3673 (II) For persons committed to a mental institution pursuant  
3674 to sub-sub-subparagraph b.(II), within 24 hours after the  
3675 person’s agreement to voluntary admission, a record of the  
3676 finding, certification, notice, and written acknowledgment must  
3677 be filed by the administrator of the receiving or treatment  
3678 facility, as defined in s. 394.455, with the clerk of the court  
3679 for the county in which the involuntary examination under s.  
3680 394.463 occurred. No fee shall be charged for the filing under  
3681 this sub-sub-subparagraph. The clerk must present the records to  
3682 a judge or magistrate within 24 hours after receipt of the  
3683 records. A judge or magistrate is required and has the lawful

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3684 authority to review the records ex parte and, if the judge or  
3685 magistrate determines that the record supports the classifying  
3686 of the person as an imminent danger to himself or herself or  
3687 others, to order that the record be submitted to the department.  
3688 If a judge or magistrate orders the submittal of the record to  
3689 the department, the record must be submitted to the department  
3690 within 24 hours.

3691 d. A person who has been adjudicated mentally defective or  
3692 committed to a mental institution, as those terms are defined in  
3693 this paragraph, may petition the court that made the  
3694 adjudication or commitment, or the court that ordered that the  
3695 record be submitted to the department pursuant to sub-sub-  
3696 subparagraph c.(II), for relief from the firearm disabilities  
3697 imposed by such adjudication or commitment. A copy of the  
3698 petition shall be served on the state attorney for the county in  
3699 which the person was adjudicated or committed. The state  
3700 attorney may object to and present evidence relevant to the  
3701 relief sought by the petition. The hearing on the petition may  
3702 be open or closed as the petitioner may choose. The petitioner  
3703 may present evidence and subpoena witnesses to appear at the  
3704 hearing on the petition. The petitioner may confront and cross-  
3705 examine witnesses called by the state attorney. A record of the  
3706 hearing shall be made by a certified court reporter or by court-  
3707 approved electronic means. The court shall make written findings  
3708 of fact and conclusions of law on the issues before it and issue  
3709 a final order. The court shall grant the relief requested in the  
3710 petition if the court finds, based on the evidence presented  
3711 with respect to the petitioner’s reputation, the petitioner’s  
3712 mental health record and, if applicable, criminal history

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3713 record, the circumstances surrounding the firearm disability,  
 3714 and any other evidence in the record, that the petitioner will  
 3715 not be likely to act in a manner that is dangerous to public  
 3716 safety and that granting the relief would not be contrary to the  
 3717 public interest. If the final order denies relief, the  
 3718 petitioner may not petition again for relief from firearm  
 3719 disabilities until 1 year after the date of the final order. The  
 3720 petitioner may seek judicial review of a final order denying  
 3721 relief in the district court of appeal having jurisdiction over  
 3722 the court that issued the order. The review shall be conducted  
 3723 de novo. Relief from a firearm disability granted under this  
 3724 sub-subparagraph has no effect on the loss of civil rights,  
 3725 including firearm rights, for any reason other than the  
 3726 particular adjudication of mental defectiveness or commitment to  
 3727 a mental institution from which relief is granted.

3728 e. Upon receipt of proper notice of relief from firearm  
 3729 disabilities granted under sub-subparagraph d., the department  
 3730 shall delete any mental health record of the person granted  
 3731 relief from the automated database of persons who are prohibited  
 3732 from purchasing a firearm based on court records of  
 3733 adjudications of mental defectiveness or commitments to mental  
 3734 institutions.

3735 f. The department is authorized to disclose data collected  
 3736 pursuant to this subparagraph to agencies of the Federal  
 3737 Government and other states for use exclusively in determining  
 3738 the lawfulness of a firearm sale or transfer. The department is  
 3739 also authorized to disclose this data to the Department of  
 3740 Agriculture and Consumer Services for purposes of determining  
 3741 eligibility for issuance of a concealed weapons or concealed

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3742 firearms license and for determining whether a basis exists for  
 3743 revoking or suspending a previously issued license pursuant to  
 3744 s. 790.06(10). When a potential buyer or transferee appeals a  
 3745 nonapproval based on these records, the clerks of court and  
 3746 mental institutions shall, upon request by the department,  
 3747 provide information to help determine whether the potential  
 3748 buyer or transferee is the same person as the subject of the  
 3749 record. Photographs and any other data that could confirm or  
 3750 negate identity must be made available to the department for  
 3751 such purposes, notwithstanding any other provision of state law  
 3752 to the contrary. Any such information that is made confidential  
 3753 or exempt from disclosure by law shall retain such confidential  
 3754 or exempt status when transferred to the department.

3755 Section 44. Subsection (1) of section 945.46, Florida  
 3756 Statutes, is amended to read:

3757 945.46 Initiation of involuntary services placement  
 3758 proceedings with respect to a mentally ill inmate scheduled for  
 3759 release.—

3760 (1) If an inmate who is receiving mental health treatment  
 3761 in the department is scheduled for release through expiration of  
 3762 sentence or any other means, but continues to be mentally ill  
 3763 and in need of care and treatment, as defined in s. 945.42, the  
 3764 warden is authorized to initiate procedures for involuntary  
 3765 services placement pursuant to s. 394.467, 60 days prior to such  
 3766 release.

3767 Section 45. This act shall take effect July 1, 2017.

