

By Representative Argenziano

1                                   A bill to be entitled  
2           An act relating to forensic client services;  
3           amending s. 40.29, F.S., relating to estimated  
4           amount of pay for expert witnesses, to conform  
5           a reference; amending s. 393.11, F.S.;  
6           specifying persons or entities that may file  
7           petition for proposed involuntary admission to  
8           residential services arising out of ch. 916,  
9           F.S., relating to forensic services; providing  
10          for petitions for defendants with autism;  
11          revising requirements relating to notice of  
12          filing of petition or service of copy of order;  
13          prohibiting release from order for involuntary  
14          admission except by court order; amending and  
15          reorganizing ch. 916, F.S., the Forensic Client  
16          Services Act; creating pt. I of ch. 916, F.S.;  
17          providing general provisions of the chapter;  
18          amending s. 916.105, F.S.; revising legislative  
19          intent; amending s. 916.106, F.S.; providing or  
20          revising definitions with respect to ch. 916,  
21          F.S.; redefining "department" to refer to the  
22          Department of Children and Family Services in  
23          lieu of the Department of Health and  
24          Rehabilitative Services; amending s. 916.107,  
25          F.S.; revising state policy with respect to the  
26          rights of forensic clients, and conforming  
27          terminology; amending and renumbering s.  
28          916.175, F.S., relating to criminal escape by a  
29          client; prohibiting escape or attempted escape  
30          from a facility or program by a client under  
31          specified circumstances, and providing

1 penalties therefor; amending and renumbering s.  
2 916.178, F.S.; prohibiting the introduction of  
3 certain articles into or upon, or the taking or  
4 attempt to take or send certain articles from,  
5 facility grounds, under specified  
6 circumstances, and providing penalties  
7 therefor; providing for enforcement by  
8 institutional security personnel or law  
9 enforcement officers; conforming a reference;  
10 amending and renumbering s. 916.19, F.S.;  
11 providing for client protection and security;  
12 renumbering s. 916.20, F.S., relating to  
13 departmental rulemaking; creating pt. II of ch.  
14 916, F.S., relating to forensic services for  
15 persons who are mentally ill; amending and  
16 renumbering s. 916.108, F.S.; providing for  
17 evaluation of defendant for competency to  
18 proceed or for sanity, under specified  
19 circumstances; amending and renumbering s.  
20 916.11, F.S.; revising time limits and  
21 guidelines relating to appointment of experts;  
22 amending s. 916.12, F.S.; providing duties of  
23 examining experts and guidelines with respect  
24 to reports on defendant's mental competence to  
25 proceed and recommended treatment for defendant  
26 to attain competence to proceed; amending s.  
27 916.13, F.S.; providing criteria for  
28 involuntary commitment of defendant adjudicated  
29 incompetent to proceed due to mental illness;  
30 revising duties of the court or the department  
31 and guidelines relating to commitment and

1 placement of defendant and filing of reports;  
2 amending s. 916.14, F.S.; providing for  
3 inapplicability of statute of limitations and  
4 of bar against former jeopardy under specified  
5 circumstances when defendant is incompetent to  
6 proceed; amending s. 916.145, F.S.; revising  
7 time limits and guidelines with respect to  
8 dismissal of charges against a defendant  
9 adjudicated incompetent to proceed; providing  
10 for dismissal without prejudice under specified  
11 circumstances; amending s. 916.15, F.S.,  
12 relating to involuntary commitment of defendant  
13 adjudicated not guilty by reason of insanity;  
14 conforming terminology; providing for mandatory  
15 departmental retention and treatment of  
16 defendant; reenacting s. 394.467(7)(a), F.S.,  
17 relating to procedure for continued involuntary  
18 placement, to incorporate said amendment in a  
19 reference; amending s. 916.16, F.S.; providing  
20 for retention of jurisdiction by committing  
21 court over a defendant hospitalized as  
22 incompetent to proceed or because of a finding  
23 of not guilty by reason of insanity or over a  
24 defendant placed on conditional release;  
25 prohibiting release except by court order in  
26 specified circumstances; amending s. 916.17,  
27 F.S.; revising procedures and guidelines  
28 relating to conditional release and  
29 modification of release conditions, including  
30 filing requirements for plans for outpatient  
31 treatment; creating pt. III of ch. 916, F.S.,

1 relating to forensic services for persons who  
2 are mentally retarded or autistic; creating s.  
3 916.301, F.S.; providing for appointment of  
4 experts who are mental retardation or autism  
5 professionals, under specified circumstances;  
6 providing for certain witness fees and  
7 evaluator fees as court costs; providing for  
8 reimbursement of certain travel and per diem  
9 expenses of state employees; creating s.  
10 916.3012, F.S.; providing for determination of  
11 incompetence to proceed when the defendant's  
12 suspected mental condition is mental  
13 retardation or autism; creating s. 916.302,  
14 F.S.; providing for involuntary commitment of  
15 defendant determined to be incompetent to  
16 proceed due to mental retardation or autism;  
17 requiring the department to notify the court of  
18 transfer of a defendant; creating s. 916.3025,  
19 F.S.; providing for retention of jurisdiction  
20 over certain defendants found incompetent to  
21 proceed and ordered into a secure facility for  
22 mentally retarded or autistic defendants;  
23 prohibiting release except by court order;  
24 creating s. 916.303, F.S.; providing for  
25 dismissal of charges without prejudice or  
26 involuntary admission to residential services  
27 or a training program under specified  
28 circumstances when the defendant is found  
29 incompetent to proceed due to mental  
30 retardation or autism; providing for petitions  
31 to continue defendant's placement in a secure

1 facility or program under specified  
2 circumstances; creating s. 916.304, F.S.;  
3 providing for conditional release based on an  
4 approved plan for providing continuing  
5 community-based training of defendant;  
6 providing for modification of release  
7 conditions or termination of jurisdiction under  
8 specified circumstances; providing an effective  
9 date.

10

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

12

13 Section 1. Subsection (1) of section 40.29, Florida  
14 Statutes, is amended to read:

15 40.29 Clerks to estimate amount for pay of jurors and  
16 witnesses and make requisition.--

17 (1) The clerk of the court in and for any county shall  
18 make an estimate of the amount necessary during any quarterly  
19 fiscal period beginning July 1 and during each succeeding  
20 quarterly fiscal period for the payment by the state of:

21 (a) Jurors in the circuit court and the county court;

22 (b) Witnesses before the grand jury;

23 (c) Witnesses summoned to appear for an investigation,  
24 preliminary hearing, or trial in a criminal case when the  
25 witnesses are summoned by a state attorney or on behalf of an  
26 indigent defendant;

27 (d) Mental health professionals who are appointed  
28 pursuant to s. 394.473 and required in a court hearing  
29 involving an indigent; and

30

31

1           (e) Expert witnesses who are appointed pursuant to s.  
2 ~~916.115(2)~~~~916.11(3)~~ and required in a court hearing involving  
3 an indigent;

4  
5 and shall forward each such estimate to the State Courts  
6 Administrator no later than the date scheduled by the State  
7 Courts Administrator. At the time of any forwarding of such  
8 estimate, the clerk of such court shall make a requisition  
9 upon the State Courts Administrator for the amount of such  
10 estimate; and the State Courts Administrator may reduce the  
11 amount if in his or her judgment the requisition is excessive.

12           Section 2. Subsections (2), (3), (8), and (11) of  
13 section 393.11, Florida Statutes, are amended to read:

14           393.11 Involuntary admission to residential  
15 services.--

16           (2) PETITION.--

17           (a) A petition for involuntary admission to  
18 residential services may be executed by a petitioning  
19 commission. For proposed involuntary admission to residential  
20 services arising out of chapter 916, the petition may be filed  
21 by a petitioning commission, the department, the state  
22 attorney of the circuit from which the defendant was  
23 committed, or the defendant's attorney.

24           (b) The petitioning commission shall consist of three  
25 persons. One of these persons shall be a physician licensed  
26 and practicing under chapter 458 or chapter 459.

27           (c) The petition shall be verified and shall:

28           1. State the name, age, and present address of the  
29 commissioners and their relationship to the person with mental  
30 retardation or autism;

31

1           2. State the name, age, county of residence, and  
2 present address of the person with mental retardation or  
3 autism;

4           3. Allege that the commission believes that the person  
5 needs involuntary residential services and specify the factual  
6 information on which such belief is based;

7           4. Allege that the person lacks sufficient capacity to  
8 give express and informed consent to a voluntary application  
9 for services and lacks the basic survival and self-care skills  
10 to provide for the person's well-being or is likely to  
11 physically injure others if allowed to remain at liberty; and

12           5. State which residential setting is the least  
13 restrictive and most appropriate alternative and specify the  
14 factual information on which such belief is based.

15           (d) The petition shall be filed in the circuit court  
16 of the county in which the person with mental retardation or  
17 autism resides.

18           (3) NOTICE.--

19           (a) Notice of the filing of the petition shall be  
20 given to the individual and his or her legal guardian ~~parent~~  
21 ~~or parents~~. The notice shall be given both verbally and in  
22 writing in the language of the client, or in other modes of  
23 communication of the client, and in English. Notice shall also  
24 be given to such other persons as the court may direct. The  
25 petition for involuntary admission to residential services  
26 shall be served with the notice.

27           **(b) Whenever a motion or petition has been filed**  
28 **pursuant to s. 916.303 to dismiss criminal charges against a**  
29 **defendant with retardation or autism, and a petition is filed**  
30 **to involuntarily admit the defendant to residential services,**  
31 **the notice of the filing of the petition shall also be given**

1 to the defendant's attorney and to the state attorney of the  
2 circuit from which the defendant was committed.

3 ~~(c)(b)~~ The notice shall state that a hearing shall be  
4 set to inquire into the need of the person with mental  
5 retardation or autism for involuntary residential services.  
6 The notice shall also state the date of the hearing on the  
7 petition.

8 ~~(d)(c)~~ The notice shall state that the individual with  
9 mental retardation or autism has the right to be represented  
10 by counsel of his or her own choice and that, if the person  
11 cannot afford an attorney, the court shall appoint one.

12 (8) ORDER.--

13 (a) In all cases, the court shall issue written  
14 findings of fact and conclusions of law to support its  
15 decision. The order shall state the basis for such findings  
16 of fact.

17 (b) An order of involuntary admission to residential  
18 services shall not be entered unless the court finds that:

19 1. The person is mentally retarded or autistic;  
20 2. Placement in a residential setting is the least  
21 restrictive and most appropriate alternative to meet the  
22 person's needs; and

23 3. Because of the person's degree of mental  
24 retardation or autism, the person:

25 a. Lacks sufficient capacity to give express and  
26 informed consent to a voluntary application for services  
27 pursuant to s. 393.065 and lacks basic survival and self-care  
28 skills to such a degree that close supervision and  
29 habilitation in a residential setting is necessary and, if not  
30 provided, would result in a real and present threat of  
31 substantial harm to the person's well-being; or



1           b. Is likely to physically injure others if allowed to  
2 remain at liberty.

3           (c) If the evidence presented to the court is not  
4 sufficient to warrant involuntary admission to residential  
5 services, but the court feels that residential services would  
6 be beneficial, the court may recommend that the person seek  
7 voluntary admission.

8           (d) If an order of involuntary admission to  
9 residential services provided by the developmental services  
10 program of the department is entered by the court, a copy of  
11 the written order shall be served upon the person, the  
12 person's counsel, ~~and the department,~~ and the state attorney  
13 and the person's defense counsel, if applicable. The order of  
14 involuntary admission sent to the department shall also be  
15 accompanied by a copy of the examining committee's report and  
16 other reports contained in the court file.

17           (e) Upon receiving the order, the department shall,  
18 within 45 days, provide the court with a copy of the person's  
19 family or individual support plan and copies of all  
20 examinations and evaluations, outlining the treatment and  
21 rehabilitative programs. The department shall document that  
22 the person has been placed in the most appropriate, least  
23 restrictive and cost-beneficial residential facility. A copy  
24 of the family or individual support plan and other  
25 examinations and evaluations shall be served upon the person  
26 and the person's counsel at the same time the documents are  
27 filed with the court.

28           (11) CONTINUING JURISDICTION.--The court which issues  
29 the initial order for involuntary admission to residential  
30 services under this section shall have continuing jurisdiction  
31 to enter further orders to ensure that the person is receiving

1 adequate care, treatment, habilitation, and rehabilitation,  
2 including psychotropic medication and behavioral programming.  
3 Upon request, the court may transfer the continuing  
4 jurisdiction to the court where a client resides if it is  
5 different from where the original involuntary admission order  
6 was issued. No person may be released from an order for  
7 involuntary admission to residential services except by the  
8 order of the court.

9 Section 3. For the purpose of incorporating the  
10 amendment to section 916.15, Florida Statutes, in a reference  
11 thereto, paragraph (a) of subsection (7) of section 394.467,  
12 Florida Statutes, is reenacted to read:

13 394.467 Involuntary placement.--

14 (7) PROCEDURE FOR CONTINUED INVOLUNTARY PLACEMENT.--

15 (a) Hearings on petitions for continued involuntary  
16 placement shall be administrative hearings and shall be  
17 conducted in accordance with the provisions of s. 120.57(1),  
18 except that any order entered by the hearing officer shall be  
19 final and subject to judicial review in accordance with s.  
20 120.68. Orders concerning patients committed after  
21 successfully pleading not guilty by reason of insanity shall  
22 be governed by the provisions of s. 916.15.

23 Section 4. Part I of chapter 916, Florida Statutes,  
24 consisting of sections 916.10, 916.105, 916.106, 916.107,  
25 916.1081, 916.1085, 916.1091, and 916.1093, is created and  
26 entitled "General Provisions."

27 Section 5. Section 916.105, Florida Statutes, is  
28 amended to read:

29 916.105 Legislative intent.--

30 (1) It is the intent of the Legislature that the  
31 Department of Children and Family ~~Health and Rehabilitative~~

1 Services establish, locate, and maintain separate and secure  
2 facilities and programs for the treatment or training of  
3 defendants ~~forensic clients~~ who are charged with a felony and  
4 who have been found to be incompetent to proceed due to their  
5 mental illness, mental retardation, or autism ~~mentally~~  
6 ~~retarded or mentally ill defendants~~, or who have been  
7 acquitted of felonies ~~crimes~~ by reason of insanity, and who,  
8 while still under the jurisdiction of the committing court,  
9 are committed to the department ~~for mental retardation or~~  
10 ~~mental health services~~ under the provisions of this chapter.  
11 The separate, secure facilities shall be sufficient to  
12 accommodate the number of defendants ~~clients~~ committed under  
13 the conditions noted above, except those defendants ~~clients~~  
14 found by the department to be appropriate for treatment or  
15 training in a civil ~~mental health~~ treatment facility or  
16 program. Such secure facilities shall be designed and  
17 administered so that ingress and egress, together with other  
18 requirements of this chapter, may be strictly controlled by  
19 staff responsible for security in order to protect the  
20 defendant ~~client~~, facility ~~hospital~~ personnel, other clients,  
21 and citizens in adjacent communities.

22 (2) It is further the intent of the Legislature that  
23 treatment or training programs for defendants ~~clients~~ who are  
24 found to be ~~mentally retarded or mentally ill~~, mentally  
25 retarded, or autistic ~~defendants~~ and are involuntarily  
26 committed to the department ~~certain mental retardation or~~  
27 ~~mental health facilities~~, and who are still under the  
28 jurisdiction of the committing court, be provided in such a  
29 manner, subject to security requirements and other mandates of  
30 this chapter, as to ensure the rights of the defendants ~~said~~  
31 ~~clients~~ as provided in this chapter.

1           (3) It is the intent of the Legislature that  
2 evaluation and services to defendants who are ~~treatment of~~  
3 mentally ill, and mentally retarded, or autistic defendants be  
4 provided in community ~~inpatient or outpatient~~ settings, in  
5 community residential facilities, or in civil, nonforensic  
6 facilities, whenever this is a feasible alternative to  
7 treatment or training in a state forensic facility.

8           Section 6. Section 916.106, Florida Statutes, is  
9 amended to read:

10           916.106 Definitions.--For the purposes of this  
11 chapter:

12           (1) "Autism" means a pervasive, neurologically based  
13 developmental disability of extended duration which causes  
14 severe learning, communication, and behavior disorders, with  
15 the age of onset of autism occurring during infancy or  
16 childhood. Individuals with autism exhibit impairment in  
17 reciprocal social interaction, impairment in verbal and  
18 nonverbal communication and imaginative ability, and a  
19 markedly restricted repertoire of activities and interests.

20           (2)(1) "Chemical weapon" means any shell, cartridge,  
21 bomb, gun, or other device capable of emitting  
22 chloroacetophenone (CN), chlorobenzalmalonitrile (CS) or any  
23 derivatives thereof in any form, or any other agent with  
24 lacrimatory properties, and shall include products such as  
25 that commonly known as "mace."

26           (3) "Civil facility" means a mental health facility  
27 established within the department to serve individuals  
28 committed pursuant to chapter 394 and those defendants  
29 committed pursuant to this chapter who do not require the  
30 security provided in a forensic facility.

31           (4)(2) "Court" means the circuit court.

1           (5)~~(3)~~ "Department" means the Department of Children  
2 and Family ~~Health and Rehabilitative~~ Services.

3           (6) "Express and informed consent" or "consent" means  
4 consent given voluntarily in writing after a conscientious and  
5 sufficient explanation and disclosure of the purpose of the  
6 proposed treatment, the common side effects of the treatment,  
7 if any, the expected duration of the treatment, and any  
8 alternative treatment available.

9           (7)~~(4)~~ "Forensic client" or "client"~~"patient"~~ means  
10 any defendant who is mentally ill, mentally retarded, or  
11 autistic and mentally ill person who is committed to the  
12 department pursuant to this chapter and:

13           (a) Who has been determined to need treatment for a  
14 mental illness or training for mental retardation or autism;

15           (b) Who has been found incompetent to proceed on a  
16 felony offense ~~stand trial or incompetent for sentencing,~~ has  
17 been acquitted of a felony ~~criminal~~ offense by reason of  
18 insanity; ~~has criminal charges pending, or has been found~~  
19 ~~guilty of a criminal offense but is not an inmate of the~~  
20 ~~Department of Corrections or any other correctional facility;~~  
21 and

22           (c) Who has been determined by the department to:

23           1. Be dangerous to himself or herself or others; or

24           2. Present a clear and present potential to escape;

25 and

26           (d) Who is an adult or juvenile prosecuted as an  
27 adult.

28           (8)~~(5)~~ "Forensic facility" means a separate and secure  
29 facility established within the department to serve for the  
30 ~~treatment of~~ forensic clients. Such separate and secure  
31 facilities shall be security-grade buildings located on

1 grounds distinct in location from other ~~treatment~~ facilities  
2 for persons who are mentally ill. The Florida State Hospital  
3 shall not be required to maintain separate ~~treatment~~  
4 facilities for mentally ill, ~~or~~ mentally retarded, or autistic  
5 defendants who are persons found incompetent to proceed for  
6 trial or who are acquitted of a criminal offense by reason of  
7 insanity.

8 (9) "Incompetent" means unable to proceed at any  
9 material stage of a criminal proceeding, which shall include  
10 trial of the case, pretrial hearings involving questions of  
11 fact on which the defendant might be expected to testify,  
12 entry of a plea, proceedings for violation of probation or  
13 violation of community control, sentencing, and hearings on  
14 issues regarding a defendant's failure to comply with court  
15 orders or conditions or other matters in which the mental  
16 competence of the defendant is necessary for a just resolution  
17 of the issues being considered.

18 (10)(6) "Institutional security personnel" means staff  
19 members who meet or exceed the requirements of s. 943.13 and  
20 who are responsible for providing security, for protection of  
21 clients and personnel, for the enforcement of rules, for  
22 prevention and investigation of unauthorized activities, and  
23 for safeguarding the interests of citizens in the surrounding  
24 communities.

25 (11)(7) "Mental illness" ~~"Mentally ill"~~ means having  
26 an impairment of the emotional processes that, ~~of the ability~~  
27 ~~to~~ exercise conscious control of one's actions, or of the  
28 ability to perceive or understand reality ~~or to understand,~~  
29 which impairment substantially interferes with a defendant's  
30 ~~person's~~ ability to meet the ordinary demands of living, ~~7~~  
31 ~~regardless of etiology; except that,~~ For the purposes of this

1 chapter, the term does not apply to defendants ~~include simple~~  
2 ~~intoxication, persons~~ who are solely mentally retarded or  
3 autistic, and does not include intoxication or conditions  
4 manifested only by antisocial behavior or substance abuse  
5 impairment ~~drug addiction~~.

6 (12)(8) "Mental retardation" means significantly  
7 subaverage general intellectual functioning existing  
8 concurrently with deficits in adaptive behavior and manifested  
9 during the period from conception to age 18. "Significantly  
10 subaverage general intellectual functioning," for the purpose  
11 of this definition, means performance which is two or more  
12 standard deviations from the mean score on a standardized  
13 intelligence test specified in the rules of the department.  
14 "Adaptive behavior," for the purpose of this definition, means  
15 the effectiveness or degree with which an individual meets the  
16 standards of personal independence and social responsibility  
17 expected of the individual's age, cultural group, and  
18 community.

19 (13) "Social service professional," for the purposes  
20 of part III, means a person whose minimum qualifications  
21 include a bachelor's degree and at least 2 years of social  
22 work, clinical practice, or equivalent experience working  
23 directly with persons with mental retardation, autism or other  
24 developmental disabilities, special education, or habilitation  
25 programs.

26 Section 7. Section 916.107, Florida Statutes, is  
27 amended to read:

28 916.107 Rights of forensic clients.--

29 (1) RIGHT TO INDIVIDUAL DIGNITY.--

30 (a) The policy of the state is that the individual  
31 dignity of the client ~~patient~~ shall be respected at all times

1 and upon all occasions, including any occasion when the  
2 forensic client ~~patient~~ is detained, transported, or treated.  
3 Defendants ~~Persons~~ who are mentally ill, or mentally retarded,  
4 or autistic and who are charged with, ~~or who have been~~  
5 ~~convicted of, committing~~ felonies ~~criminal acts~~ shall receive  
6 appropriate treatment or training. In a criminal case  
7 involving a defendant ~~person~~ who has been adjudicated  
8 incompetent to proceed ~~stand trial~~ or not guilty by reason of  
9 insanity, ~~or who has otherwise been found by the court to meet~~  
10 ~~the criteria for involuntary commitment,~~ a jail may be used as  
11 an emergency facility for up to 15 days from the date the  
12 department receives a completed copy of the commitment order  
13 containing the documentation required by Rules 3.212 and  
14 3.217, Florida Rules of Criminal Procedure. For ~~in every case~~  
15 ~~in which a~~ defendant who is mentally ill, or mentally  
16 retarded, or autistic, who ~~person~~ is held in a jail, and who  
17 has been adjudicated incompetent to proceed or not guilty by  
18 reason of insanity, evaluation and treatment or training shall  
19 be provided in the jail by the local public receiving facility  
20 for mental health services or by the developmental services  
21 program for persons with mental retardation or autism, the  
22 client's ~~patient's~~ physician or ~~clinical~~ psychologist, or any  
23 other appropriate ~~mental health~~ program ~~available to provide~~  
24 ~~such treatment~~ until the client ~~person~~ is transferred to the  
25 custody of the department.

26 (b) Mentally ill, or mentally retarded, or autistic  
27 defendants ~~persons~~ who are committed to the department  
28 pursuant to this chapter and who are initially placed in, or  
29 subsequently transferred to, a civil ~~mental health treatment~~  
30 facility shall have the same rights as other persons committed  
31



1 to civil facilities as described in chapter 393 or part I of  
2 chapter 394, as long as they remain in a civil facility.

3 (2) RIGHT TO TREATMENT.--

4 (a) The policy of the state is that the department  
5 shall not deny treatment or training ~~of mental illness or~~  
6 ~~mental retardation~~ to any client and that no services shall be  
7 delayed at a ~~forensic mental health treatment~~ facility because  
8 the forensic client is unable to pay. However, every  
9 reasonable effort to collect appropriate reimbursement for the  
10 cost of providing ~~mental health~~ services to clients ~~persons~~  
11 able to pay for the services, including reimbursement from  
12 insurance or other third-party payments, shall be made by  
13 ~~forensic~~ facilities providing services pursuant to this  
14 chapter and in accordance with the provisions of s. 402.33.

15 (b) Each client ~~who is a patient at a forensic~~  
16 ~~facility~~ shall be given, at the time of admission and at  
17 regular intervals thereafter, a physical examination, which  
18 shall include screening for communicable disease by a health  
19 practitioner authorized by law to give such screenings and  
20 examinations.

21 (c) Every client ~~patient~~ committed pursuant to this  
22 act shall be afforded the opportunity to participate in  
23 activities designed to enhance self-image and the beneficial  
24 effects of other treatments or training, as determined by the  
25 facility.

26 (d) Not more than 30 days after admission, each client  
27 ~~patient~~ shall have and receive, in writing, an individualized  
28 treatment or training plan which the client ~~patient~~ has had an  
29 opportunity to assist in preparing.

30 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.--

31

1           (a) A client ~~person~~ committed to the department  
2 pursuant to this act shall be asked to give express and  
3 informed written consent for treatment. ~~"Express and informed~~  
4 ~~consent" or "consent" means consent given voluntarily in~~  
5 ~~writing after a conscientious and sufficient explanation and~~  
6 ~~disclosure of the purpose of the proposed treatment, the~~  
7 ~~common side effects of the treatment, if any, the expected~~  
8 ~~duration of the treatment, and any alternative treatment~~  
9 ~~available.~~ If a client ~~patient~~ in a forensic facility refuses  
10 such treatment as is deemed necessary by the client's  
11 ~~patient's~~ multidisciplinary treatment team at the forensic  
12 facility for the appropriate care of the client ~~patient~~ and  
13 the safety of the client ~~patient~~ or others, such treatment may  
14 be provided under the following circumstances:

15           1. In an emergency situation in which there is  
16 immediate danger to the safety of the client ~~patient~~ or  
17 others, such treatment may be provided upon the written order  
18 of a physician for a period not to exceed 48 hours, excluding  
19 weekends and legal holidays. If, after the 48-hour period,  
20 the client ~~patient~~ has not given express and informed consent  
21 to the treatment initially refused, the administrator or  
22 designee of the forensic facility shall, within 48 hours,  
23 excluding weekends and legal holidays, petition the committing  
24 court or the circuit court serving the county in which the  
25 facility is located, at the option of the facility  
26 administrator or designee, for an order authorizing the  
27 continued treatment of the client ~~patient~~. In the interim,  
28 treatment may be continued without the consent of the client  
29 ~~patient~~ upon the continued written order of a physician who  
30 has determined that the emergency situation continues to  
31

1 present a danger to the safety of the client ~~patient~~ or  
2 others.

3 2. In a situation other than an emergency situation,  
4 the administrator or designee of the forensic facility shall  
5 petition the court for an order authorizing the treatment to  
6 of the client ~~patient~~. The petition may be filed without fees  
7 or costs being charged to the department.The order shall  
8 allow such treatment for a period not to exceed 90 days from  
9 the date of the entry of the order. Unless the court is  
10 notified in writing that the client ~~patient~~ has provided  
11 express and informed consent in writing or that the client  
12 ~~patient~~ has been discharged by the committing court, the  
13 administrator or designee shall, prior to the expiration of  
14 the initial 90-day order, petition the court for an order  
15 authorizing the continuation of treatment for another 90-day  
16 period. This procedure shall be repeated until the client  
17 ~~patient~~ provides consent or is discharged by the committing  
18 court.

19 3. At the hearing on the issue of whether the court  
20 should enter an order authorizing treatment for which a client  
21 ~~patient~~ has refused to give express and informed consent, the  
22 court shall determine by clear and convincing evidence that  
23 the client ~~patient~~ is mentally ill, or mentally retarded, or  
24 autistic as defined in this chapter, that the treatment not  
25 consented to is essential to the care of the client ~~patient~~,  
26 and that the treatment not consented to is not experimental  
27 and does not present an unreasonable risk of serious,  
28 hazardous, or irreversible side effects. In arriving at the  
29 substitute judgment decision, the court must consider at least  
30 the following factors:  
31

- 1           a. The client's ~~patient's~~ expressed preference  
2 regarding treatment;  
3           b. The probability of adverse side effects;  
4           c. The prognosis without treatment; and  
5           d. The prognosis with treatment.  
6

7 The hearing shall be as convenient to the client ~~patient~~ as  
8 may be consistent with orderly procedure and shall be  
9 conducted in physical settings not likely to be injurious to  
10 the client's ~~patient's~~ condition. The court may appoint a  
11 master to preside at the hearing. The client ~~patient~~ or the  
12 client's ~~patient's~~ guardian, and the ~~his or her~~  
13 representative, shall be provided with a copy of the petition  
14 and the date, time, and location of the hearing. The client  
15 ~~patient~~ has the right to have an attorney represent him or her  
16 at the hearing, and, if the client ~~patient~~ is indigent, the  
17 court shall appoint the office of the public defender to  
18 represent the client ~~patient~~ at the hearing. The client  
19 ~~patient~~ may testify or not, as he or she chooses, and has the  
20 right to cross-examine witnesses ~~testifying on behalf of the~~  
21 ~~facility~~ and may present his or her own witnesses.

22           (b) In addition to the provisions of paragraph (a), in  
23 the case of surgical procedures requiring the use of a general  
24 anesthetic or electroconvulsive treatment or nonpsychiatric  
25 medical procedures, and prior to performing the procedure,  
26 written permission shall be obtained from the client ~~patient~~,  
27 if the client ~~he or she~~ is legally competent, from the parent  
28 or guardian of a minor client ~~patient~~, or from the guardian of  
29 an incompetent client ~~patient~~. The administrator or designee  
30 of the forensic facility or a ~~his or her~~ designated  
31 representative may, with the concurrence of the client's

1 ~~patient's~~ attending physician, authorize emergency surgical or  
2 nonpsychiatric medical treatment if such treatment is deemed  
3 lifesaving or for a situation threatening serious bodily harm  
4 to the client ~~patient~~ and permission of the client ~~patient~~ or  
5 the client's ~~patient's~~ guardian cannot be obtained.

6 (4) QUALITY OF TREATMENT.--Each client ~~patient~~  
7 committed pursuant to this chapter shall receive treatment or  
8 training suited to the client's ~~his or her~~ needs, which shall  
9 be administered skillfully, safely, and humanely with full  
10 respect for the the client's ~~patient's~~ dignity and personal  
11 integrity. Each client ~~patient~~ shall receive such medical,  
12 vocational, social, educational, and rehabilitative services  
13 as the client's ~~patient's~~ condition requires to bring about a  
14 return to court for disposition of charges or a ~~an early~~  
15 return to the ~~his or her~~ community. In order to achieve this  
16 goal, the department is directed to coordinate the services of  
17 the Alcohol, Drug Abuse and Mental Health Program Office and  
18 the Developmental Services Program Office ~~its forensic mental~~  
19 ~~health and mental retardation programs~~ with all other programs  
20 of the department and other appropriate state agencies.

21 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.--

22 (a) Each client ~~patient~~ committed pursuant to the  
23 provisions of this chapter has the right to communicate freely  
24 and privately with persons outside the facility unless it is  
25 determined that such communication is likely to be harmful to  
26 the client ~~patient~~ or others. Clients shall have the right to  
27 contact and to receive communication from their attorneys at  
28 any reasonable time.

29 (b) Each client ~~patient~~ committed under the provisions  
30 of this chapter shall be allowed to receive, send, and mail  
31 sealed, unopened correspondence; and no client's ~~patient's~~

1 incoming or outgoing correspondence shall be opened, delayed,  
2 held, or censored by the facility unless there is reason to  
3 believe that it contains items or substances which may be  
4 harmful to the client ~~patient~~ or others, in which case the  
5 administrator or designee may direct reasonable examination of  
6 such mail and may regulate the disposition of such items or  
7 substances. "Correspondence" shall not include parcels or  
8 packages. Forensic facilities are authorized to promulgate  
9 reasonable institutional policies ~~rules~~ to provide for the  
10 inspection of parcels or packages and for the removal of  
11 contraband items for health or security reasons prior to the  
12 contents being given to a client ~~resident~~.

13 (c) If a client's ~~patient's~~ right to communicate is  
14 restricted by the administrator, written notice of such  
15 restriction shall be served on the client ~~patient~~ or his or  
16 her legal ~~the patient's~~ guardian or representatives, and such  
17 restriction shall be recorded on the client's ~~patient's~~  
18 clinical record with the reasons therefor. The restriction of  
19 a client's ~~patient's~~ right to communicate shall be reviewed at  
20 least every 7 ~~90~~ days.

21 (d) Each ~~forensic~~ facility shall establish reasonable  
22 institutional policies ~~rules~~ governing visitors, visiting  
23 hours, and the use of telephones by clients ~~patients~~ in the  
24 least restrictive ~~possible~~ manner possible.

25 (e) Each client ~~patient~~ committed pursuant to this  
26 chapter shall have ready access to a telephone in order to  
27 report an alleged abuse. The facility or program staff shall  
28 orally ~~verbally~~ and in writing inform each client ~~patient~~ of  
29 the procedure for reporting abuse and shall present the  
30 information in a language the client understands. A written  
31 copy of that procedure, including the telephone number of the

1 abuse registry and reporting forms, shall be posted in plain  
2 view.

3 (f) The department's forensic facilities ~~department~~  
4 shall develop policies ~~adopt rules~~ providing a procedure for  
5 reporting abuse. Facility staff shall be required, as a  
6 condition of employment, to become familiar with the  
7 procedures for the reporting of abuse.

8 (6) CARE AND CUSTODY OF PERSONAL EFFECTS OF CLIENTS  
9 ~~PATIENTS~~.--A client's ~~patient's~~ right to possession of his or  
10 ~~her~~ clothing and personal effects shall be respected. The  
11 department by rule, or the administrator of any facility by  
12 written institutional policy, may declare certain items to be  
13 hazardous to the welfare of clients ~~patients~~ or others or to  
14 the operation of the facility. Such items may be restricted  
15 from introduction into the facility or may be restricted from  
16 being in a client's ~~patient's~~ possession. The administrator  
17 or designee may take temporary custody of such effects when  
18 required for medical and safety reasons. Custody of such  
19 personal effects shall be recorded in the client's ~~patient's~~  
20 clinical record.

21 (7) VOTING IN PUBLIC ELECTIONS.--A client ~~patient~~  
22 committed pursuant to this chapter who is eligible to vote  
23 according to the laws of the state has the right to vote in  
24 the primary and general elections. The department shall  
25 establish rules to enable clients ~~patients~~ to obtain voter  
26 registration forms, applications for absentee ballots, and  
27 absentee ballots.

28 (8) CLINICAL RECORD; CONFIDENTIALITY.--A clinical  
29 record for each client ~~patient~~ shall be maintained. The record  
30 shall include data pertaining to admission and such other  
31 information as may be required under rules of the department.

1 Unless waived by express and informed consent of ~~by~~ the client  
2 ~~patient~~ or the client's ~~patient's~~ legal guardian or, if the  
3 client ~~patient~~ is deceased, by the client's ~~patient's~~ personal  
4 representative or by that family member who stands next in  
5 line of intestate succession or except as otherwise provided  
6 in this subsection, the clinical record is confidential and  
7 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
8 I of the State Constitution.

9 (a) Such clinical record may be released:

10 1. To such persons and agencies as are designated by  
11 the client ~~patient~~ or the client's ~~patient's~~ legal guardian.

12 2. To persons authorized by order of court and to the  
13 client's counsel when the records are needed by the counsel  
14 for adequate representation.

15 3. To a qualified researcher, as defined by rule; a  
16 staff member of the facility; or an employee of the department  
17 when the administrator of the facility or secretary of the  
18 department deems it necessary for treatment of the client  
19 ~~patient~~, maintenance of adequate records, compilation of  
20 treatment data, or evaluation of programs.

21 4. For statistical and research purposes if the  
22 information is abstracted in such a way as to protect the  
23 identity of individuals.

24 5. If a client ~~patient~~ receiving services pursuant to  
25 this chapter has declared an intention to harm other persons.  
26 When such a declaration has been made, the administrator shall  
27 authorize the release of sufficient information to provide  
28 adequate warning to the person threatened with harm by the  
29 client, and to the committing court, the state attorney, and  
30 the attorney representing the client; ~~however, only the~~  
31 ~~declaration may be disclosed.~~



1           6. To the parent or next of kin of a mentally ill, ~~or~~  
2 mentally retarded, or autistic person who is committed to, or  
3 is being served ~~treated~~ by, a ~~forensic mental health~~ facility  
4 or program when such information is limited to that person's  
5 service ~~treatment~~ plan and current physical and mental  
6 condition. Release of such information shall be in accordance  
7 with the code of ethics of the profession involved.

8           (b) Notwithstanding other provisions of this  
9 subsection, the department may request or receive from or  
10 provide to any of the following entities client information to  
11 facilitate treatment, habilitation, rehabilitation, and  
12 continuity of care of any forensic client:

13           1. The Social Security Administration and the United  
14 States Department of Veterans Affairs;

15           2. Law enforcement agencies, state attorneys, defense  
16 attorneys ~~public defenders or other attorneys defending the~~  
17 ~~patient~~, and judges in regard to the client's ~~patient's~~  
18 status;

19           3. Jail personnel in the jail to which a client may be  
20 returned; and

21           4. Community agencies and others expected to provide  
22 followup care to the client ~~patient~~ upon the client's ~~his or~~  
23 ~~her~~ return to the community.

24           (c) The department may provide notice to any client's  
25 ~~patient's~~ next of kin or first representative regarding any  
26 serious medical illness or the death of the client ~~patient~~.

27           (d)1. Any law enforcement agency, ~~treatment~~ facility,  
28 or other governmental agency that receives information  
29 pursuant to this subsection shall maintain the confidentiality  
30 of such information except as otherwise provided herein.

31

1           2. Any agency or private practitioner who acts in good  
2 faith in releasing information pursuant to this subsection is  
3 not subject to civil or criminal liability for such release.

4           (9) HABEAS CORPUS.--

5           (a) At any time, and without notice, a client ~~person~~  
6 detained by a facility, or a relative, friend, guardian,  
7 representative, or attorney on behalf of such client ~~person~~,  
8 may petition for a writ of habeas corpus to question the cause  
9 and legality of such detention and request that the committing  
10 ~~circuit~~ court issue a writ for release. Each client ~~patient~~  
11 committed pursuant to this chapter shall receive a written  
12 notice of the right to petition for a writ of habeas corpus.

13           (b) A client ~~patient~~ or his or her legal ~~the patient's~~  
14 guardian or representatives or attorney may file a petition in  
15 the circuit court in the county where the client ~~patient~~ is  
16 committed alleging that the client ~~patient~~ is being unjustly  
17 denied a right or privilege granted herein or that a procedure  
18 authorized herein is being abused. Upon the filing of such a  
19 petition, the circuit court shall have the authority to  
20 conduct a judicial inquiry and to issue any appropriate order  
21 to correct an abuse of the provisions of this chapter.

22           (10) TRANSPORTATION.--

23           (a) The sheriff shall consult with the governing board  
24 of the county as to the most appropriate and cost-effective  
25 means of transportation for forensic clients committed for  
26 treatment or training. Such consultation shall include, but  
27 is not limited to, consideration of the cost to the county of  
28 transportation performed by sheriff's department personnel as  
29 opposed to transportation performed by other means and, if  
30 sheriff's department personnel are to be used for  
31 transportation, the effect such use will have, if any, on

1 service delivery levels of the sheriff's road patrol. After  
2 such consultation with the governing board of the county, the  
3 sheriff shall determine the most appropriate and  
4 cost-effective means of transportation for forensic clients  
5 committed for treatment or training.

6 (b) The governing board of each county is authorized  
7 to contract with private transport companies for the  
8 transportation of such clients ~~patients~~ to and from a ~~forensic~~  
9 facility.

10 (c) Any company that transports a client ~~patient~~  
11 pursuant to this section is considered an independent  
12 contractor and is solely liable for the safe and dignified  
13 transportation of the client ~~patient~~. Any transport company  
14 that contracts with the governing board of a county for the  
15 transport of clients ~~patients~~ as provided for in this section  
16 shall be insured and provide no less than \$100,000 in  
17 liability insurance with respect to the transportation of the  
18 clients ~~patients~~.

19 (d) Any company that contracts with a governing board  
20 of a county to transport clients ~~patients~~ shall comply with  
21 the applicable rules of the department to ensure the safety  
22 and dignity of the clients ~~patients~~.

23 (11) LIABILITY FOR VIOLATIONS.--Any person who  
24 violates or abuses any rights or privileges of a client  
25 ~~patient~~ provided by this act is liable for damages as  
26 determined by law. Any person who acts in good faith in  
27 complying with the provisions of this act is immune from civil  
28 or criminal liability for his or her actions in connection  
29 with the admission, diagnosis, treatment, training, or  
30 discharge of a client ~~patient~~ to or from a facility. However,  
31

1 this subsection does not relieve any person from liability if  
2 he or she ~~the person~~ is negligent.

3 Section 8. Section 916.175, Florida Statutes, is  
4 renumbered as section 916.1081, Florida Statutes, and amended  
5 to read:

6 916.1081 ~~916.175~~ Escape from ~~treatment~~ program;  
7 penalty.--A defendant ~~client~~ involuntarily committed to the  
8 department under the provisions of this chapter who escapes or  
9 attempts to escape from a facility or program ~~commits the~~  
10 ~~department is guilty of~~ a felony of the second degree,  
11 punishable as provided in s. 775.082, s. 775.083, or s.  
12 775.084.

13 Section 9. Section 916.178, Florida Statutes, is  
14 renumbered as section 916.1085, Florida Statutes, and amended  
15 to read:

16 916.1085 ~~916.178~~ Introduction or removal of certain  
17 articles unlawful; penalty.--

18 (1)(a) Except as authorized by law or as specifically  
19 authorized by the person in charge of a ~~forensic~~ facility, it  
20 is unlawful to introduce into or upon the grounds of any  
21 ~~forensic~~ facility under the supervision or control of the  
22 department, or to take or attempt to take or send therefrom,  
23 any of the following articles, which are hereby declared to be  
24 contraband for the purposes of this section:

- 25 1. Any intoxicating beverage or beverage which causes  
26 or may cause an intoxicating effect;
- 27 2. Any controlled substance as defined in chapter 893;
- 28 3. Any firearm or deadly weapon; or
- 29 4. Any other item ~~items~~ as determined by the  
30 department, and as designated by departmental rule or by the  
31 administrator of any facility, and designated by written

1 institutional policies, to be hazardous to the welfare of  
2 patients or the operation of the facility.

3 (b) It is unlawful to transmit to, attempt to transmit  
4 to, or cause or attempt to cause to be transmitted to or  
5 received by any client ~~patient~~ of any facility any article or  
6 thing declared by this section to be contraband, at any place  
7 which is outside of the grounds of such facility, except as  
8 authorized by law or as specifically authorized by the person  
9 in charge of such facility.

10 (2)(a) All individuals or vehicles entering upon the  
11 grounds of any ~~forensic~~ facility under the supervision or  
12 control of the department may ~~shall~~ be subject to reasonable  
13 search and seizure of any contraband materials introduced  
14 thereon, for purpose of enforcement of this chapter.

15 (b) These provisions shall be enforced by  
16 institutional security personnel as defined in s.  
17 916.106(10)(6) or by a law enforcement officer as defined in  
18 s. 943.10.

19 (c) A person who ~~Whoever~~ violates any provision of  
20 subparagraph (1)(a)2. or subparagraph (1)(a)3. commits is  
21 ~~guilty of~~ a felony of the third degree, punishable as provided  
22 in s. 775.082, s. 775.083, or s. 775.084.

23 Section 10. Section 916.19, Florida Statutes, is  
24 renumbered as section 916.1091, Florida Statutes, and amended  
25 to read:

26 916.1091 ~~916.19~~ Duties, functions, and powers of  
27 institutional security personnel.--In case of emergency, and  
28 when necessary to provide protection and security to any  
29 client ~~patient~~, to the personnel, equipment, buildings, or  
30 grounds of a department facility, or to citizens in the  
31 surrounding community, institutional security personnel may,

1 when authorized by the administrator of the facility or her or  
2 his designee when the administrator is not present, use a  
3 chemical weapon against a patient housed in a forensic  
4 facility. However, such weapon shall be used only to the  
5 extent necessary to provide such protection and security.  
6 Under no circumstances shall any such officer carry a chemical  
7 weapon on her or his person except during the period of the  
8 emergency for which its use was authorized. All chemical  
9 weapons shall be placed in secure storage when their use is  
10 not authorized as provided in this section.

11 Section 11. Section 916.20, Florida Statutes, is  
12 renumbered as section 916.1093, Florida Statutes.

13 Section 12. Part II of chapter 916, Florida Statutes,  
14 consisting of sections 916.111, 916.115, 916.12, 916.13,  
15 916.14, 916.145, 916.15, 916.16, and 916.17, is created and  
16 entitled "Forensic Services for Persons Who are Mentally Ill."

17 Section 13. Section 916.108, Florida Statutes, is  
18 renumbered as section 916.111, Florida Statutes, and amended  
19 to read:

20 916.111 ~~916.108~~ Training of mental health  
21 experts.--The evaluation of defendants for competency to  
22 proceed stand trial or for sanity at the time of the  
23 commission of the offense shall be conducted in such a way as  
24 to ensure uniform application of the criteria enumerated in  
25 Rules 3.210 and 3.216, Florida Rules of Criminal Procedure.  
26 The department shall develop, and may contract with accredited  
27 institutions:

28 (1) To provide:

29 (a) A plan for training community mental health  
30 professionals to perform forensic evaluations and to

31

1 standardize the criteria and procedures to be used in these  
2 evaluations;

3 (b) Clinical protocols and procedures based upon the  
4 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal  
5 Procedure; and

6 (c) Training for community mental health professionals  
7 in the application of these protocols and procedures in  
8 performing forensic evaluations and providing reports to the  
9 courts; and

10 (2) To compile and maintain the necessary information  
11 for evaluating the success of this program, including the  
12 number of persons trained, the cost of operating the program,  
13 and the effect on the quality of forensic evaluations as  
14 measured by appropriateness of admissions to state forensic  
15 facilities and to community-based care programs.

16 Section 14. Section 916.11, Florida Statutes, is  
17 renumbered as section 916.115, Florida Statutes, and amended  
18 to read:

19 916.115 ~~916.11~~ Appointment of experts.--

20 (1)(a) Annually ~~Semiannually~~, the department shall  
21 provide the courts with a list of mental health professionals  
22 who have completed approved training as experts.

23 (b) The court may appoint no ~~more than three nor~~ fewer  
24 than two experts to determine issues of the mental condition  
25 of a defendant in a criminal case, including the issues of  
26 competency to proceed ~~stand trial~~, insanity, and involuntary  
27 hospitalization or placement. The panel of experts may  
28 evaluate the defendant in jail or in another appropriate local  
29 facility.

30 (c) To the extent possible, ~~at least one of the~~  
31 appointed experts shall have completed forensic evaluator

1 training approved by the department and be either a  
2 ~~state-employed~~ psychiatrist, psychologist, or physician ~~if in~~  
3 ~~the local vicinity; a psychiatrist, psychologist, or physician~~  
4 ~~designated by the district alcohol, drug abuse, and mental~~  
5 ~~health program office; or a community mental health center~~  
6 ~~psychiatrist, psychologist, or physician.~~

7 ~~(d) If a defendant's suspected mental condition is~~  
8 ~~mental retardation, the court shall appoint the developmental~~  
9 ~~services program of the Department of Health and~~  
10 ~~Rehabilitative Services to examine the defendant and determine~~  
11 ~~whether she or he meets the definition of "retardation" in s.~~  
12 ~~393.063 and, if so, whether she or he is competent to stand~~  
13 ~~trial.~~

14 (2) Expert witnesses appointed by the court to  
15 evaluate ~~determine~~ the mental condition of a defendant in a  
16 criminal case shall be allowed reasonable fees for services  
17 rendered as evaluators of competence or sanity and as  
18 witnesses, which shall be paid by the county in which the  
19 indictment was found or the information or affidavit was  
20 filed. State employees shall be paid expenses pursuant to s.  
21 112.061. The fees shall be taxed as costs in the case. In  
22 order for the experts to be paid for the services rendered,  
23 the reports and testimony must explicitly address each of the  
24 factors and follow the procedures set out in this chapter and  
25 in the Florida Rules of Criminal Procedure.

26 Section 15. Section 916.12, Florida Statutes, is  
27 amended to read:

28 916.12 Mental competence to proceed ~~stand trial~~.--

29 (1) A defendant ~~person~~ is incompetent to proceed ~~stand~~  
30 ~~trial~~ within the meaning of this chapter if the defendant  
31 ~~person~~ does not have sufficient present ability to consult



1 with her or his lawyer with a reasonable degree of rational  
2 understanding or if the ~~defendant person~~ has no rational, as  
3 well as factual, understanding of the proceedings against her  
4 or him.

5 (2) The experts shall first determine whether the  
6 person is mentally ill and, if so, consider the factors  
7 related to the issue of whether the defendant meets the  
8 criteria for competence to proceed; that is, whether the  
9 defendant has sufficient present ability to consult with  
10 counsel with a reasonable degree of rational understanding and  
11 whether the defendant has a rational, as well as factual,  
12 understanding of the pending proceedings.

13 (3) In considering the issue of competence to proceed,  
14 the examining experts shall first consider and specifically  
15 include in their report the defendant's capacity to:

16 (a) Appreciate the charges or allegations against the  
17 defendant;

18 (b) Appreciate the range and nature of possible  
19 penalties, if applicable, that may be imposed in the  
20 proceedings against the defendant;

21 (c) Understand the adversarial nature of the legal  
22 process;

23 (d) Disclose to counsel facts pertinent to the  
24 proceedings at issue;

25 (e) Manifest appropriate courtroom behavior; and

26 (f) Testify relevantly;

27  
28 and include in their report any other factor deemed relevant  
29 by the experts.

30 (4) If the experts should find that the defendant is  
31 incompetent to proceed, the experts shall report on any

1 recommended treatment for the defendant to attain competence  
2 to proceed. In considering the issues relating to treatment,  
3 the examining experts shall specifically report on:

4 (a) The mental illness causing the incompetence;

5 (b) The treatment or treatments appropriate for the  
6 mental illness of the defendant and an explanation of each of  
7 the possible treatment alternatives in order of choices;

8 (c) The availability of acceptable treatment and, if  
9 treatment is available in the community, the expert shall so  
10 state in the report; and

11 (d) The likelihood of the defendant attaining  
12 competence under the treatment recommended, an assessment of  
13 the probable duration of the treatment required to restore  
14 competence, and the probability that the defendant will attain  
15 competence to proceed in the foreseeable future.

16 (5)(2) A defendant who, because of psychotropic  
17 medication, is able to understand the nature of proceedings  
18 and assist in the defendant's own ~~her or his~~ defense shall not  
19 automatically be deemed incompetent to proceed ~~stand trial~~  
20 simply because the defendant's satisfactory mental functioning  
21 is dependent upon such medication. As used in this subsection,  
22 "psychotropic medication" means any drug or compound used to  
23 treat mental or emotional disorders affecting the mind,  
24 behavior, intellectual functions, perception, moods, or  
25 emotions and includes antipsychotic, antidepressant,  
26 antimanic, and antianxiety drugs.

27 Section 16. Section 916.13, Florida Statutes, is  
28 amended to read:

29 916.13 Involuntary commitment of defendant adjudicated  
30 incompetent to ~~stand trial or incompetent for sentencing.~~--  
31

1           (1) ~~CRITERIA.~~ Every defendant who is charged with a  
2 felony and who is person adjudicated incompetent to proceed  
3 ~~stand trial or incompetent for sentencing~~, pursuant to the  
4 applicable Florida Rules of Criminal Procedure, may be  
5 involuntarily committed for treatment upon a finding by the  
6 court of clear and convincing evidence that:

7           (a) The defendant person is mentally ill and because  
8 of the her or his mental illness, ~~or that the person is~~  
9 ~~mentally retarded and because of her or his mental~~  
10 ~~retardation:~~

11           1. The defendant person is manifestly incapable of  
12 surviving alone or with the help of willing and responsible  
13 family or friends, including available alternative services,  
14 and, without treatment, the defendant person is likely to  
15 suffer from neglect or refuse to care for herself or himself  
16 and such neglect or refusal poses a real and present threat of  
17 substantial harm to the defendant's her or his well-being; and  
18 ~~or~~

19           2. There is a substantial likelihood that in the near  
20 future the defendant person will inflict serious bodily harm  
21 on herself or himself or another person, as evidenced by  
22 recent behavior causing, attempting, or threatening such harm;  
23 ~~and~~

24           (b) All available, less restrictive treatment  
25 alternatives, including treatment in community residential  
26 facilities or community inpatient or outpatient settings,  
27 which would offer an opportunity for improvement of the  
28 defendant's person's condition have been judged to be  
29 inappropriate; and-

30           (c) There is a substantial probability that the mental  
31 illness causing the defendant's incompetence will respond to

1 treatment and the defendant will regain competency to proceed  
2 in the reasonably foreseeable future.

3 ~~(2) ADMISSION TO A FORENSIC FACILITY.--~~

4 ~~(a)~~ A defendant ~~Every person~~ who has been charged with  
5 a felony and who has been adjudicated incompetent to proceed  
6 ~~stand trial or incompetent for sentencing~~, and who meets the  
7 criteria for commitment to the department under the provisions  
8 of this chapter, may ~~shall~~ be committed to the department, and  
9 the department shall ~~may~~ retain and treat the defendant. No  
10 later than 6 months after the date of admission ~~commitment~~ or  
11 at the end of any period of extended commitment, or at any  
12 time the administrator or designee shall have determined that  
13 the defendant has regained competency to proceed ~~stand trial~~  
14 or no longer meets the criteria for continued commitment, the  
15 administrator or designee shall file a report with the court  
16 pursuant to the applicable Florida Rules of Criminal  
17 Procedure.

18 ~~(b) A defendant adjudicated incompetent to stand trial~~  
19 ~~due to her or his mental retardation may be ordered into a~~  
20 ~~secure facility designated by the department for retarded~~  
21 ~~defendants. The department may not transfer a client from the~~  
22 ~~secure facility to another residential setting without first~~  
23 ~~notifying the court; the department may transfer such~~  
24 ~~defendant unless the department receives written objection to~~  
25 ~~the transfer from the court within 30 days after receipt of~~  
26 ~~the notice by the court. No retarded client may be placed in~~  
27 ~~the designated secure facility except by criminal court order.~~  
28 ~~However, if criminal charges are subsequently dropped and the~~  
29 ~~client is involuntarily admitted to retardation residential~~  
30 ~~services, the placement at the secure facility may be~~  
31 ~~continued if so ordered by the committing court following a~~

1 ~~hearing with the same due process requirements as set out in~~  
2 ~~s. 393.11 for an initial involuntary admission. Such court~~  
3 ~~hearings shall be held at least annually, with notice to the~~  
4 ~~state attorney, and each order of continuing placement shall~~  
5 ~~be based on a finding that the client is likely to physically~~  
6 ~~injure others as specified in s. 393.11(1)(c)2. In no case may~~  
7 ~~a client's placement in a secure facility exceed the maximum~~  
8 ~~sentence for the crime for which she or he was charged.~~

9 Section 17. Section 916.14, Florida Statutes, is  
10 amended to read:

11 916.14 Statute of limitations; former jeopardy.--The  
12 statute of limitations shall not be applicable to criminal  
13 charges dismissed because of the incompetency of the defendant  
14 to proceed ~~stand trial~~. If a defendant is declared  
15 incompetent to proceed ~~stand trial~~ during trial and afterwards  
16 is declared competent to proceed ~~stand trial~~, the defendant's  
17 other, uncompleted trial shall not constitute former jeopardy.

18 Section 18. Section 916.145, Florida Statutes, is  
19 amended to read:

20 916.145 Adjudication of incompetency due to mental  
21 illness ~~retardation~~; dismissal of charges.--The charges  
22 against any defendant adjudicated incompetent to proceed ~~stand~~  
23 ~~trial~~ due to the defendant's ~~his or her~~ mental illness  
24 ~~retardation~~ shall be dismissed without prejudice to the state  
25 if the defendant remains incompetent to proceed within a  
26 reasonable time after such determination, not to exceed 5  
27 years ~~stand trial 2 years after such adjudication~~, unless the  
28 court in its order specifies its reasons for believing that  
29 the defendant will become competent to proceed within the  
30 foreseeable future ~~stand trial~~ and specifies the time within  
31 which the defendant is expected to become competent to proceed

1 ~~stand trial.~~ The charges against the defendant are dismissed  
2 without prejudice to the state to refile the charges should  
3 the defendant be declared competent to proceed in the future.

4 Section 19. Section 916.15, Florida Statutes, is  
5 amended to read:

6 916.15 Involuntary commitment of defendant adjudicated  
7 not guilty by reason of insanity.--

8 (1) A defendant ~~person~~ who is acquitted of criminal  
9 charges because of a finding of not guilty by reason of  
10 insanity may be involuntarily committed pursuant to such  
11 finding if the defendant ~~person~~ is mentally ill and, because  
12 of the ~~person's~~ illness, is manifestly dangerous to himself or  
13 herself or others.

14 (2) Every defendant ~~person~~ acquitted of criminal  
15 charges by reason of insanity and found to meet the criteria  
16 for involuntary commitment may be committed and treated in  
17 accordance with the provisions of this section and the  
18 applicable Florida Rules of Criminal Procedure. The  
19 department shall admit a defendant so adjudicated to an  
20 appropriate facility or program for treatment and shall ~~may~~  
21 retain and treat such defendant. No later than 6 months after  
22 the date of admission, prior to the end of any period of  
23 extended commitment, or at any time the administrator or  
24 designee shall have determined that the defendant no longer  
25 meets the criteria for continued commitment placement, the  
26 administrator or designee shall file a report with the court  
27 pursuant to the applicable Florida Rules of Criminal  
28 Procedure.

29 (3) In all proceedings under this subsection, both the  
30 defendant ~~patient~~ and the state shall have the right to a  
31 hearing before the committing court. Evidence at such hearing

1 may be presented by the hospital administrator or the  
2 administrator's ~~his or her~~ designee as well as by the state  
3 and the defendant. The defendant shall have the right to  
4 counsel at any such hearing. In the event that a defendant  
5 cannot afford counsel, the court shall appoint the public  
6 defender to represent the defendant. The parties shall have  
7 access to the defendant's records at the treating facilities  
8 and may interview or depose personnel who have had contact  
9 with the defendant at the treating facilities.

10 Section 20. Section 916.16, Florida Statutes, is  
11 amended to read:

12 916.16 Jurisdiction of committing court.--

13 (1) The committing criminal court shall retain  
14 jurisdiction in the case of any defendant patient hospitalized  
15 as incompetent to proceed or because of a finding of not  
16 guilty by reason of insanity or, if retarded, admitted to  
17 retardation residential services pursuant to this chapter. No  
18 such defendant person may be released except by order of the  
19 committing court. The administrative hearing examiner shall  
20 have no jurisdiction to determine issues of continuing  
21 hospitalization or release of any defendant person admitted  
22 pursuant to this chapter.

23 (2) The committing criminal court shall retain  
24 jurisdiction in the case of any defendant placed on  
25 conditional release. No such defendant may be released from  
26 the conditions of release except by order of the committing  
27 court.

28 Section 21. Section 916.17, Florida Statutes, is  
29 amended to read:

30 916.17 Conditional release.--

31

1           (1) The committing criminal court may order a  
2 conditional release of any defendant who has been found to be  
3 incompetent to proceed ~~committed according to a finding of~~  
4 ~~incompetency to stand trial or an adjudication of~~ not guilty  
5 by reason of insanity, based on an approved plan for providing  
6 appropriate outpatient care and treatment. The committing  
7 criminal court may order a conditional release of any  
8 defendant in lieu of an involuntary commitment to a forensic  
9 facility pursuant to s. 916.13. Upon a recommendation that ~~At~~  
10 ~~such time as the administrator shall determine~~ outpatient  
11 treatment of the defendant is to be appropriate, ~~she or he may~~  
12 ~~file with the court, with copies to all parties,~~ a written  
13 plan for outpatient treatment, including recommendations from  
14 qualified professionals, must be filed with the court, with  
15 copies to all parties. Such a plan may also be submitted by  
16 the defendant and filed with the court with copies to all  
17 parties. The plan shall include:

18           (a) Special provisions for residential care or  
19 adequate supervision of the defendant.

20           (b) Provisions for outpatient mental health services.

21           (c) If appropriate, recommendations for auxiliary  
22 services such as vocational training, educational services, or  
23 special medical care.

24  
25 In its order of conditional release, the court shall specify  
26 the conditions of release based upon the release plan and  
27 shall direct the appropriate agencies or persons to submit  
28 periodic reports to the court regarding the defendant's  
29 compliance with the conditions of the release and progress in  
30 treatment, with copies to all parties.

31



1           (2) Upon the filing of an affidavit or statement under  
2 oath by any person ~~if at any time it appears~~ that the  
3 defendant has failed to comply with the conditions of release,  
4 that the defendant's condition has deteriorated to the point  
5 that inpatient care is required, or that the release  
6 conditions should be modified, the court shall hold a hearing  
7 within 7 days after receipt of the affidavit or statement  
8 under oath. After the hearing, the court ~~and~~ may modify the  
9 release conditions. The court may also ~~or~~ order that the  
10 defendant be returned to the department if it is found, after  
11 the appointment and report of experts, that the person meets  
12 the criteria for involuntary ~~further~~ treatment.

13           (3) If at any time it is determined after a hearing  
14 that the defendant no longer requires court-supervised  
15 followup care, the court shall terminate its jurisdiction in  
16 the cause and discharge the defendant.

17           Section 22. Part III of chapter 916, Florida Statutes,  
18 consisting of sections 916.301, 916.3012, 916.302, 916.3025,  
19 916.303, and 916.304, is created and entitled "Forensic  
20 Services for Persons Who Are Mentally Retarded or Autistic."

21           Section 23. Section 916.301, Florida Statutes, is  
22 created to read:

23           916.301 Appointment of experts.--

24           (1) The department shall provide the courts annually  
25 with a list of mental retardation and autism professionals who  
26 are qualified to perform evaluations of defendants alleged to  
27 be incompetent to proceed due to mental retardation or autism.  
28 The courts may use professionals from this list when ordering  
29 evaluations for defendants suspected of being retarded or  
30 autistic.

31

1       (2) If a defendant's suspected mental condition is  
2 mental retardation or autism, the court shall appoint the  
3 developmental services program of the department who will  
4 select two experts to evaluate whether the defendant meets the  
5 definition of retardation or autism and, if so, whether the  
6 defendant is competent to proceed. One of the experts selected  
7 by the developmental services program must be a psychologist  
8 and the other must be a social service professional.

9       (3) The developmental services program shall obtain  
10 evaluations from a psychologist licensed or authorized by law  
11 to practice psychology in this state, with experience in  
12 evaluating persons suspected of having mental retardation or  
13 autism, and a social service professional with experience in  
14 working with persons with mental retardation or autism.

15       (a) The psychologist shall evaluate whether the  
16 defendant meets the definition of mental retardation or autism  
17 and, if so, whether the defendant is incompetent to proceed  
18 due to mental retardation or autism.

19       (b) The social service professional shall provide a  
20 social and developmental history of the defendant.

21       (4) At the request of any party, the court must  
22 appoint at least one, but not more than two, additional  
23 experts to evaluate the defendant. The expert or experts  
24 appointed by the court will evaluate whether the defendant  
25 meets the definition of mental retardation or autism and, if  
26 so, whether the defendant is competent to proceed. All  
27 evaluations ordered by the court must be from qualified  
28 experts licensed in this state with experience in evaluating  
29 persons with mental retardation or autism.

30       (5) Expert witnesses selected by the developmental  
31 services program or appointed by the court to evaluate the

1 mental condition of a defendant in a criminal case shall be  
2 allowed reasonable fees for services rendered as evaluators  
3 and as witnesses, which shall be paid by the county in which  
4 the indictment was found or the information or affidavit was  
5 filed. State employees shall be paid expenses pursuant to s.  
6 112.061. The fees shall be taxed as costs in the case. In  
7 order for the experts to be paid for the services rendered,  
8 the reports and testimony must explicitly address each of the  
9 factors and follow the procedures set out in this chapter and  
10 in the Florida Rules of Criminal Procedure.

11 Section 24. Section 916.3012, Florida Statutes, is  
12 created to read:

13 916.3012 Mental competence to proceed.--

14 (1) A defendant whose suspected mental condition is  
15 mental retardation or autism is incompetent to proceed within  
16 the meaning of this chapter if the defendant does not have  
17 sufficient present ability to consult with the defendant's  
18 lawyer with a reasonable degree of rational understanding or  
19 if the defendant has no rational, as well as factual,  
20 understanding of the proceedings against the defendant.

21 (2) The experts shall first consider whether the  
22 defendant meets the definition of mental retardation and, if  
23 so, consider the factors related to the issue of whether the  
24 defendant meets the criteria for competence to proceed; that  
25 is, whether the defendant has sufficient present ability to  
26 consult with counsel with a reasonable degree of rational  
27 understanding and whether the defendant has a rational, as  
28 well as factual, understanding of the pending proceedings.

29 (3) In considering the issue of competence to proceed,  
30 the examining experts shall first consider and specifically  
31 include in their report the defendant's capacity to:

- 1       (a) Appreciate the charges or allegations against the  
2 defendant;
- 3       (b) Appreciate the range and nature of possible  
4 penalties, if applicable, that may be imposed in the  
5 proceedings against the defendant;
- 6       (c) Understand the adversarial nature of the legal  
7 process;
- 8       (d) Disclose to counsel facts pertinent to the  
9 proceedings at issue;
- 10       (e) Manifest appropriate courtroom behavior; and  
11       (f) Testify relevantly;
- 12
- 13 and include in their report any other factor deemed relevant  
14 by the experts.
- 15       (4) If the experts should find that the defendant is  
16 incompetent to proceed, the experts shall report on any  
17 recommended training for the defendant to attain competence to  
18 proceed. In considering the issues relating to training, the  
19 examining experts shall specifically report on:
- 20       (a) The mental retardation or autism causing the  
21 incompetence;
- 22       (b) The training appropriate for the mental  
23 retardation or autism of the defendant and an explanation of  
24 each of the possible training alternatives in order of  
25 choices;
- 26       (c) The availability of acceptable training and, if  
27 training is available in the community, the expert shall so  
28 state in the report; and
- 29       (d) The likelihood of the defendant attaining  
30 competence under the training recommended, an assessment of  
31 the probable duration of the training required to restore

1 competence, and the probability that the defendant will attain  
2 competence to proceed in the foreseeable future.

3 Section 25. Section 916.302, Florida Statutes, is  
4 created to read:

5 916.302 Involuntary commitment of defendant determined  
6 to be incompetent to proceed due to mental retardation or  
7 autism.--

8 (1) CRITERIA.--Every defendant who is charged with a  
9 felony and who is found to be incompetent to proceed, pursuant  
10 to this chapter and the applicable Florida Rules of Criminal  
11 Procedure, may be involuntarily committed for training upon a  
12 finding by the court of clear and convincing evidence that:

13 (a) The defendant is mentally retarded or autistic;

14 (b) There is a substantial likelihood that in the near  
15 future the defendant will inflict serious bodily harm on  
16 himself or herself or another person, as evidenced by recent  
17 behavior causing, attempting, or threatening such harm;

18 (c) All available, less restrictive alternatives,  
19 including services provided in community residential  
20 facilities or other community settings, which would offer an  
21 opportunity for improvement of the condition have been judged  
22 to be inappropriate; and

23 (d) There is a substantial probability that the mental  
24 retardation or autism causing the defendant's incompetence  
25 will respond to training and the defendant will regain  
26 competency to proceed in the reasonably foreseeable future.

27 (2) ADMISSION TO A FACILITY.--

28 (a) A defendant who has been charged with a felony and  
29 who is found to be incompetent to proceed, and who meets the  
30 criteria for commitment to the department under the provisions  
31 of this chapter, shall be committed to the department, and the

1 department shall retain and serve the defendant. No later than  
2 6 months after the date of admission or at the end of any  
3 period of extended commitment or at any time the administrator  
4 or designee shall have determined that the defendant has  
5 regained competency to proceed or no longer meets the criteria  
6 for continued commitment, the administrator or designee shall  
7 file a report with the court pursuant to this chapter and the  
8 applicable Florida Rules of Criminal Procedure.

9 (b) A defendant determined to be incompetent to  
10 proceed due to mental retardation or autism may be ordered by  
11 a criminal circuit court into a secure facility designated by  
12 the department for mentally retarded or autistic defendants.

13 (c) The department may transfer a defendant from a  
14 designated secure facility to another designated secure  
15 facility and must notify the court of the transfer within 30  
16 days after the transfer is completed.

17 (d) The department may not transfer a defendant from a  
18 designated secure facility to a nonsecure facility without  
19 first notifying the court, and all parties, 30 days before the  
20 proposed transfer. If the court objects to the proposed  
21 transfer to a nonsecure facility, it must send its written  
22 objection to the department. The department may transfer the  
23 defendant unless it receives the written objection from the  
24 court within 30 days after the court's receipt of the notice  
25 of the proposed transfer.

26 (3) PLACEMENT OF DUALY DIAGNOSED DEFENDANTS.--

27 (a) If a defendant is both retarded or autistic and  
28 mentally ill, evaluations must address which condition is  
29 primarily affecting the defendant's competency to proceed.  
30 Referral of the defendant should be made to the facility or  
31

1 program most appropriate to address the symptoms which are the  
2 cause of the defendant's incompetence.

3 (b) Transfer from one facility or program to another  
4 facility or program may occur when, in the department's  
5 judgment, it is in the defendant's best treatment or training  
6 interests. Transfer will require an amended order from the  
7 committing court.

8 Section 26. Section 916.3025, Florida Statutes, is  
9 created to read:

10 916.3025 Jurisdiction of committing court.--

11 (1) The committing criminal court shall retain  
12 jurisdiction in the case of any defendant found to be  
13 incompetent to proceed and ordered into a secure facility  
14 designated by the department for mentally retarded or autistic  
15 defendants. No defendant may be released except by the order  
16 of the committing court.

17 (2) The committing criminal court shall retain  
18 jurisdiction in the case of any defendant placed on  
19 conditional release. No such defendant may be released from  
20 the conditions of release except by order of the committing  
21 court.

22 (3) The committing criminal court shall consider the  
23 petition to involuntarily admit to residential services  
24 provided by the department's developmental services program a  
25 person whose charges have been dismissed, and, when  
26 applicable, to continue secure placement of such person as  
27 provided in s. 916.303. The committing criminal court shall  
28 retain jurisdiction over such person so long as he or she  
29 remains in secure placement or is on conditional release.

30 Section 27. Section 916.303, Florida Statutes, is  
31 created to read:

1           916.303 Determination of incompetency due to mental  
2 retardation or autism; dismissal of charges.--

3           (1) The charges against any defendant found to be  
4 incompetent to proceed due to mental retardation or autism  
5 shall be dismissed without prejudice to the state if the  
6 defendant remains incompetent to proceed within a reasonable  
7 time after such determination, not to exceed 2 years, unless  
8 the court in its order specifies its reasons for believing  
9 that the defendant will become competent to proceed within the  
10 foreseeable future and specifies the time within which the  
11 defendant is expected to become competent to proceed. The  
12 charges against the defendant are dismissed without prejudice  
13 to the state to refile the charges should the defendant be  
14 declared competent to proceed in the future.

15           (2)(a) If the charges are dismissed and if the  
16 defendant is considered to lack sufficient capacity to give  
17 express and informed consent to a voluntary application for  
18 services and lacks the basic survival and self-care skills to  
19 provide for his or her well-being or is likely to physically  
20 injure himself or herself or others if allowed to remain at  
21 liberty, the department, the state attorney or the defendant's  
22 attorney may apply to the committing criminal court to  
23 involuntarily admit the defendant to residential services  
24 pursuant to s. 393.11.

25           (b) If the defendant is considered to need involuntary  
26 residential services under s. 393.11 and, further, there is a  
27 substantial likelihood that the defendant will injure another  
28 person or continues to present a danger of escape, and all  
29 available less restrictive alternatives, including services in  
30 community residential facilities or other community settings,  
31 which would offer an opportunity for improvement of the



1 condition have been judged to be inappropriate, then the  
2 person or entity filing the petition under s. 393.11, the  
3 state attorney, the defendant's counsel, the petitioning  
4 commission, or the department may also petition the committing  
5 criminal court to continue the defendant's placement in a  
6 secure facility or program pursuant to this section.

7 Section 28. Section 916.304, Florida Statutes, is  
8 created to read:

9 916.304 Conditional release.--

10 (1) The committing criminal court may order a  
11 conditional release of any defendant who has been found to be  
12 incompetent to proceed, based on an approved plan for  
13 providing continuing community-based training. The committing  
14 criminal court may order a conditional release of any  
15 defendant in lieu of an involuntary commitment to a forensic  
16 facility pursuant to s. 916.13. Upon a recommendation that  
17 community-based training for the defendant is appropriate, a  
18 written plan for community-based training, including  
19 recommendations from qualified professionals, may be filed  
20 with the court, with copies to all parties. Such a plan may  
21 also be submitted by the defendant and filed with the court,  
22 with copies to all parties. The plan shall include:

23 (a) Special provisions for residential care and  
24 adequate supervision of the defendant, including recommended  
25 location of placement.

26 (b) Recommendations for auxiliary services such as  
27 vocational training, psychological training, educational  
28 services, leisure services, and special medical care.

29  
30 In its order of conditional release, the court shall specify  
31 the conditions of release based upon the release plan and

1 shall direct the appropriate agencies or persons to submit  
2 periodic reports to the courts regarding the defendant's  
3 compliance with the conditions of the release and progress in  
4 training, with copies to all parties.

5 (2) Upon the filing of an affidavit or statement under  
6 oath by any person that the defendant has failed to comply  
7 with the conditions of release, that the defendant's condition  
8 has deteriorated, or that the release conditions should be  
9 modified, the court shall hold a hearing within 7 days after  
10 receipt of the affidavit or statement under oath. After the  
11 hearing, the court may modify the release conditions. The  
12 court may also order that the defendant be placed into more  
13 appropriate programs for further training or may order the  
14 defendant to be returned to involuntary residential services  
15 of the department if it is found, after the appointment and  
16 report of experts, that the defendant meets the criteria for  
17 involuntary residential services.

18 (3) If at any time it is determined after a hearing  
19 that the defendant no longer requires court-supervised  
20 followup care, the court shall terminate its jurisdiction in  
21 the cause and discharge the defendant.

22 Section 29. This act shall take effect October 1 of  
23 the year in which enacted.  
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HOUSE SUMMARY

Revises and reorganizes ch. 916, F.S., the Forensic Client Services Act. Creates pt. I of ch. 916, F.S., containing general provisions, pt. II of ch. 916, F.S., relating to forensic services for persons who are mentally ill, and pt. III of ch. 916, F.S., relating to forensic services for persons who are mentally retarded or autistic. Revises specified provisions relating to estimated amount of pay for jurors and witnesses, to conform a reference. Provides for a specialized involuntary residential training program for certain mentally retarded or autistic defendants.