

## CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to mental health; amending s. 394.455,  
7 F.S.; revising a definition; providing additional  
8 definitions of terms used in pt. I of ch. 394, F.S., "The  
9 Baker Act"; amending s. 394.4574, F.S.; including mental  
10 health counselors among certain professionals required to  
11 assess certain mental health residents; amending s.  
12 394.4598, F.S.; revising language with respect to the  
13 guardian advocate; providing for discharge under certain  
14 circumstances; amending s. 394.4615, F.S.; providing for  
15 release of certain clinical records to certain persons for  
16 certain purposes; amending s. 394.463, F.S.; revising  
17 criteria and procedures for involuntary examination;  
18 creating s. 394.4655, F.S.; providing criteria and  
19 procedures for involuntary outpatient placement; providing  
20 for a voluntary examination for outpatient placement;  
21 providing for a petition for involuntary outpatient  
22 placement; providing for appointment of counsel; providing  
23 for continuance of hearings; providing for a hearing on

24 | involuntary outpatient placement; setting forth procedures  
25 | for the hearing; providing for appointment of a master to  
26 | preside; providing for an independent examination;  
27 | requiring a court to order involuntary outpatient  
28 | placement under certain circumstances; requiring a  
29 | treatment plan; providing for plan modification; providing  
30 | for a patient to be brought to a receiving facility upon  
31 | failure or refusal to comply with the treatment plan;  
32 | requiring attachment of a copy of the treatment plan to a  
33 | petition; providing for involuntary inpatient placement or  
34 | involuntary assessment; requiring consideration of a  
35 | patient's competence to proceed; requiring a list of  
36 | guardian advocates to be submitted to the court; defining  
37 | the role of a guardian advocate; providing for discharge  
38 | of the guardian advocate; requiring certain documentation;  
39 | allowing a person for whom an involuntary outpatient  
40 | placement petition has been filed to agree to a voluntary  
41 | treatment agreement; specifying requirements for  
42 | agreements; providing for modifications; providing for  
43 | filing of an affidavit of noncompliance with a voluntary  
44 | treatment plan; requiring a hearing; requiring dismissal  
45 | of petitions in certain circumstances; providing  
46 | procedures for continued involuntary outpatient placement;  
47 | providing for a continued involuntary outpatient placement  
48 | certificate; requiring a hearing; requiring appointment of  
49 | a public defender; requiring hearings; providing for  
50 | appointment of a special master; authorizing a patient and  
51 | the patient's attorney to agree to a period of continued

52 outpatient placement without a court hearing; amending s.  
 53 394.467, F.S.; revising language with respect to  
 54 involuntary inpatient placement to conform to changes made  
 55 by the act; revising requirements for evaluation and  
 56 placement; amending ss. 394.495, 394.496, 394.498,  
 57 419.001, and 744.704, F.S.; correcting cross references;  
 58 authorizing the Department of Children and Family Services  
 59 to adopt rules; providing severability; providing an  
 60 effective date.

61

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

63

64 Section 1. Subsection (3) of section 394.455, Florida  
 65 Statutes, is amended, present subsection (16) of said section is  
 66 renumbered as subsection (18), present subsections (17) through  
 67 (28) of said section are renumbered as subsections (20) through  
 68 (31), respectively, existing subsections (29) and (30) are  
 69 renumbered as subsections (33) and (34), respectively, and new  
 70 subsections (16), (17), (19), and (32) are added to said  
 71 section, to read:

72 394.455 Definitions.--As used in this part, unless the  
 73 context clearly requires otherwise, the term:

74 (3) "Clinical record" means all parts of the record  
 75 required to be maintained and includes all medical records,  
 76 progress notes, charts, and admission and discharge data, and  
 77 all other information recorded by a facility which pertains to  
 78 the patient's hospitalization or ~~and~~ treatment.

79           (16) "Involuntary examination" means an examination  
 80 performed under s. 394.463 to determine if an individual  
 81 qualifies for involuntary inpatient treatment under s.  
 82 394.467(1) or involuntary outpatient treatment under s.  
 83 394.4655(1).

84           (17) "Involuntary placement" means involuntary outpatient  
 85 treatment pursuant to s. 394.4655 or involuntary inpatient  
 86 treatment pursuant to s. 394.467.

87           (19) "Mental health counselor" means a person licensed as  
 88 a mental health counselor under chapter 491.

89           (32) "Service provider" means any public or private  
 90 receiving facility, an entity under contract with the Department  
 91 of Children and Family Services to provide mental health  
 92 services, a clinical psychologist, a clinical social worker, a  
 93 mental health counselor, a physician, a psychiatric nurse, or a  
 94 community mental health center or clinic as defined in this  
 95 part.

96           Section 2. Paragraph (a) of subsection (2) of section  
 97 394.4574, Florida Statutes, is amended to read:

98           394.4574 Department responsibilities for a mental health  
 99 resident who resides in an assisted living facility that holds a  
 100 limited mental health license.--

101           (2) The department must ensure that:

102           (a) A mental health resident has been assessed by a  
 103 psychiatrist, clinical psychologist, clinical social worker,  
 104 mental health counselor, or psychiatric nurse, or an individual  
 105 who is supervised by one of these professionals, and determined  
 106 to be appropriate to reside in an assisted living facility. The

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107 | documentation must be provided to the administrator of the  
108 | facility within 30 days after the mental health resident has  
109 | been admitted to the facility. An evaluation completed upon  
110 | discharge from a state mental hospital meets the requirements of  
111 | this subsection related to appropriateness for placement as a  
112 | mental health resident if it was completed within 90 days prior  
113 | to admission to the facility.

114 |       Section 3. Subsections (1) and (7) of section 394.4598,  
115 | Florida Statutes, are amended to read:

116 |       394.4598 Guardian advocate.--

117 |       (1) The administrator may petition the court for the  
118 | appointment of a guardian advocate based upon the opinion of a  
119 | psychiatrist that the patient is incompetent to consent to  
120 | treatment. If the court finds that a patient is incompetent to  
121 | consent to treatment and has not been adjudicated incapacitated  
122 | and a guardian with the authority to consent to mental health  
123 | treatment appointed, it shall appoint a guardian advocate. The  
124 | patient has the right to have an attorney represent him or her  
125 | at the hearing. If the person is indigent, the court shall  
126 | appoint the office of the public defender to represent him or  
127 | her at the hearing. The patient has the right to testify, cross-  
128 | examine witnesses, and present witnesses. The proceeding shall  
129 | be recorded either electronically or stenographically, and  
130 | testimony shall be provided under oath. One of the professionals  
131 | authorized to give an opinion in support of a petition for  
132 | involuntary placement, as described in s. 394.4655 or s.  
133 | ~~394.467(2)~~, must testify. A guardian advocate must meet the  
134 | qualifications of a guardian contained in part IV of chapter

135 744, except that a professional referred to in this part, an  
 136 employee of the facility providing direct services to the  
 137 patient under this part, a departmental employee, a facility  
 138 administrator, or member of the Florida local advocacy council  
 139 shall not be appointed. A person who is appointed as a guardian  
 140 advocate must agree to the appointment.

141 (7) The guardian advocate shall be discharged when the  
 142 patient is discharged from an order for involuntary outpatient  
 143 placement or involuntary inpatient placement ~~a receiving or~~  
 144 ~~treatment facility to the community~~ or when the patient is  
 145 transferred from involuntary to voluntary status. The court or a  
 146 hearing officer shall consider the competence of the patient  
 147 pursuant to subsection (1) and may consider an involuntarily  
 148 placed patient's competence to consent to treatment at any  
 149 hearing. Upon sufficient evidence, the court may restore, or the  
 150 hearing officer may recommend that the court restore, the  
 151 patient's competence. A copy of the order restoring competence  
 152 or the certificate of discharge containing the restoration of  
 153 competence shall be provided to the patient and the guardian  
 154 advocate.

155 Section 4. Subsection (3) of section 394.4615, Florida  
 156 Statutes, is amended to read:

157 394.4615 Clinical records; confidentiality.--

158 (3) Information from the clinical record may be released  
 159 under the following circumstances ~~when~~:

160 (a) When a patient has declared an intention to harm other  
 161 persons. When such declaration has been made, the administrator  
 162 may authorize the release of sufficient information to provide

163 adequate warning to the person threatened with harm by the  
164 patient.

165 (b) When the administrator of the facility or secretary of  
166 the department deems release to a qualified researcher as  
167 defined in administrative rule, an aftercare treatment provider,  
168 or an employee or agent of the department is necessary for  
169 treatment of the patient, maintenance of adequate records,  
170 compilation of treatment data, aftercare planning, or evaluation  
171 of programs.

172 (c) For the purpose of determining whether a person meets  
173 the criteria for involuntary outpatient placement or for  
174 preparing the proposed treatment plan pursuant to s. 394.4655,  
175 the clinical record may be released to the state attorney, the  
176 public defender, or the patient's private legal counsel; to the  
177 court; and to the appropriate mental health professionals,  
178 including the service provider identified in s.  
179 394.4655(6)(b)2., in accordance with state and federal law.

180 Section 5. Subsection (1) and paragraphs (a), (e), (g),  
181 and (i) of subsection (2) of section 394.463, Florida Statutes,  
182 are amended to read:

183 394.463 Involuntary examination.--

184 (1) CRITERIA.--A person may be taken to a receiving  
185 facility for involuntary examination if there is reason to  
186 believe that the person has a mental illness ~~he or she is~~  
187 ~~mentally ill~~ and because of his or her mental illness:

188 (a) ~~1-~~ The person has refused voluntary examination after  
189 conscientious explanation and disclosure of the purpose of the  
190 examination; or

191           ~~2. The person~~ is unable to determine for himself or  
192 herself whether examination is necessary; and

193           (b) Based upon the person's current reported or observed  
194 behavior, considering any mental health history, there is a  
195 substantial likelihood that without care or treatment:

196           1. ~~Without care or treatment,~~ The person will ~~is likely to~~  
197 suffer from neglect or refuse to care for himself or herself;  
198 such neglect or refusal will pose ~~poses~~ a real and present  
199 threat of substantial harm to his or her well-being; and it is  
200 not apparent that such harm may be avoided through the help of  
201 willing family members or friends or the provision of other  
202 services; or

203           2. ~~There is a substantial likelihood that without care or~~  
204 ~~treatment~~ The person will cause serious bodily harm to himself  
205 or herself or others in the near future, ~~as evidenced by recent~~  
206 ~~behavior.~~

207           (2) INVOLUNTARY EXAMINATION.--

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

210           1. A court may enter an ex parte order stating that a  
211 person appears to meet the criteria for involuntary examination,  
212 giving the findings on which that conclusion is based. The ex  
213 parte order for involuntary examination must be based on sworn  
214 testimony, written or oral. If other less restrictive means are  
215 not available, such as voluntary appearance for outpatient  
216 evaluation, a law enforcement officer, or other designated agent  
217 of the court, shall take the person into custody and deliver him  
218 or her to the nearest receiving facility for involuntary

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219 examination. The order of the court shall be made a part of the  
220 patient's clinical record. No fee shall be charged for the  
221 filing of an order under this subsection. Any receiving facility  
222 accepting the patient based on this order must send a copy of  
223 the order to the Agency for Health Care Administration on the  
224 next working day. The order shall be valid only until executed  
225 or, if not executed, for the period specified in the order  
226 itself. If no time limit is specified in the order, the order  
227 shall be valid for 7 days after the date that the order was  
228 signed.

229         2. A law enforcement officer shall take a person who  
230 appears to meet the criteria for involuntary examination into  
231 custody and deliver the person or have him or her delivered to  
232 the nearest receiving facility for examination. The officer  
233 shall execute a written report detailing the circumstances under  
234 which the person was taken into custody, and the report shall be  
235 made a part of the patient's clinical record. Any receiving  
236 facility accepting the patient based on this report must send a  
237 copy of the report to the Agency for Health Care Administration  
238 on the next working day.

239         3. A physician, clinical psychologist, psychiatric nurse,  
240 mental health counselor, or clinical social worker may execute a  
241 certificate stating that he or she has examined a person within  
242 the preceding 48 hours and finds that the person appears to meet  
243 the criteria for involuntary examination and stating the  
244 observations upon which that conclusion is based. If other less  
245 restrictive means are not available, such as voluntary  
246 appearance for outpatient evaluation, a law enforcement officer

247 shall take the person named in the certificate into custody and  
 248 deliver him or her to the nearest receiving facility for  
 249 involuntary examination. The law enforcement officer shall  
 250 execute a written report detailing the circumstances under which  
 251 the person was taken into custody. The report and certificate  
 252 shall be made a part of the patient's clinical record. Any  
 253 receiving facility accepting the patient based on this  
 254 certificate must send a copy of the certificate to the Agency  
 255 for Health Care Administration on the next working day.

256 (e) The Agency for Health Care Administration shall  
 257 receive and maintain the copies of ex parte orders, involuntary  
 258 outpatient placement orders issued pursuant to s. 394.4655,  
 259 involuntary inpatient orders issued pursuant to s. 394.467,  
 260 professional certificates, and law enforcement officers'  
 261 reports. These documents shall be considered part of the  
 262 clinical record, governed by the provisions of s. 394.4615. The  
 263 agency shall prepare annual reports analyzing the data obtained  
 264 from these documents, without information identifying patients,  
 265 and shall provide copies of reports to the department, the  
 266 President of the Senate, the Speaker of the House of  
 267 Representatives, and the minority leaders of the Senate and the  
 268 House of Representatives.

269 (g) A person for whom an involuntary examination has been  
 270 initiated who is being evaluated or treated at a hospital for an  
 271 emergency medical condition specified in s. 395.002 must be  
 272 examined by a receiving facility within 72 hours. The 72-hour  
 273 period begins when the patient arrives at the hospital and  
 274 ceases when the attending physician documents that the patient

275 | has an emergency medical condition. If the patient is examined  
 276 | at a hospital providing emergency medical services by a  
 277 | professional qualified to perform an involuntary examination and  
 278 | is found as a result of that examination not to meet the  
 279 | criteria for involuntary outpatient placement pursuant to s.  
 280 | 394.4655(1) or involuntary inpatient placement pursuant to s.  
 281 | 394.467(1), the patient may be offered voluntary placement, if  
 282 | appropriate, or released directly from the hospital providing  
 283 | emergency medical services. The finding by the professional that  
 284 | the patient has been examined and does not meet the criteria for  
 285 | involuntary inpatient or involuntary outpatient placement must  
 286 | be entered into the patient's clinical record. Nothing in this  
 287 | paragraph is intended to prevent a hospital providing emergency  
 288 | medical services from appropriately transferring a patient to  
 289 | another hospital prior to stabilization, provided the  
 290 | requirements of s. 395.1041(3)(c) have been met.

291 |       (i) Within the 72-hour examination period or, if the 72  
 292 | hours ends on a weekend or holiday, no later than the next  
 293 | working day thereafter, one of the following actions must be  
 294 | taken, based on the individual needs of the patient:

295 |           1. The patient shall be released, unless he or she is  
 296 | charged with a crime, in which case the patient shall be  
 297 | returned to the custody of a law enforcement officer;

298 |           2. The patient shall be released, subject to the  
 299 | provisions of subparagraph 1., for voluntary outpatient  
 300 | treatment;

301 |           3. The patient, unless he or she is charged with a crime,  
 302 | shall be asked to give express and informed consent to placement

303 as a voluntary patient, and, if such consent is given, the  
304 patient shall be admitted as a voluntary patient; or

305 4. If treatment is deemed necessary and the patient has  
306 failed to consent to voluntary inpatient or outpatient  
307 treatment, a petition for involuntary placement must shall be  
308 filed in the circuit appropriate court. The petition must seek  
309 involuntary placement of the patient in by the facility  
310 administrator when treatment is deemed necessary; in which case,  
311 the least restrictive treatment consistent with the optimum  
312 improvement of the patient's condition. A petition for  
313 involuntary outpatient placement shall be filed by one of the  
314 petitioners specified in s. 394.4655(3)(a). A petition for  
315 involuntary inpatient placement shall be filed by the facility  
316 administrator shall be made available.

317 Section 6. Section 394.4655, Florida Statutes, is created  
318 to read:

319 394.4655 Involuntary outpatient placement.--

320 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT PLACEMENT.--A  
321 person may be ordered to involuntary outpatient placement upon a  
322 finding of the court that, by clear and convincing evidence:

323 (a) The person is 18 years of age or older.

324 (b) The person has a mental illness.

325 (c) The person is unlikely to survive safely in the  
326 community without supervision, based on a clinical  
327 determination.

328 (d) The person has a history of lack of compliance with  
329 treatment for mental illness.

330 (e) The person has:

331       1. At least twice within the preceding 36 months been  
 332 involuntarily admitted to a receiving or treatment facility as  
 333 defined in s. 394.455 or has received mental health services in  
 334 a forensic or correctional facility. The 36-month period does  
 335 not include any period during which the person was admitted or  
 336 incarcerated; or

337       2. Engaged in one or more acts of serious violent behavior  
 338 toward himself or herself or others, or attempts at serious  
 339 bodily harm to himself or herself or others, within the  
 340 preceding 36 months.

341       (f) The person is, as a result of his or her mental  
 342 illness, unlikely to voluntarily participate in the recommended  
 343 treatment pursuant to the treatment plan.

344       (g) In view of the person's treatment history and current  
 345 behavior, the person is in need of involuntary outpatient  
 346 placement in order to prevent a relapse or deterioration that  
 347 would be likely to result in serious bodily harm to himself or  
 348 herself or others, or a substantial harm to his or her well-  
 349 being as set forth in s. 394.463(1).

350       (h) It is likely that the person will benefit from  
 351 involuntary outpatient placement.

352       (i) All available less restrictive alternatives that would  
 353 offer an opportunity for improvement of his or her condition  
 354 have been judged to be inappropriate or unavailable.

355       (2) INVOLUNTARY OUTPATIENT PLACEMENT.--

356       (a) From a receiving facility.--A patient may be retained  
 357 by a receiving facility upon the recommendation of the  
 358 administrator of a receiving facility where the patient has been

359 examined and after adherence to the notice and hearing  
 360 procedures provided in s. 394.4599. The recommendation must be  
 361 supported by the opinion of a psychiatrist and the second  
 362 opinion of a clinical psychologist or another psychiatrist, both  
 363 of whom have personally examined the patient within the  
 364 preceding 72 hours, that the criteria for involuntary outpatient  
 365 placement are met. However, in a county having a population of  
 366 less than 50,000, if the administrator certifies that no  
 367 psychiatrist or clinical psychologist is available to provide  
 368 the second opinion, such second opinion may be provided by a  
 369 licensed physician who has postgraduate training and experience  
 370 in diagnosis and treatment of mental and nervous disorders or by  
 371 a psychiatric nurse. Such recommendation must be entered on an  
 372 involuntary outpatient placement certificate, which certificate  
 373 must authorize the receiving facility to retain the patient  
 374 pending completion of a hearing. If the patient has been  
 375 stabilized and no longer meets the criteria for involuntary  
 376 examination pursuant to s. 394.463(1), the patient must be  
 377 released from the receiving facility while awaiting the hearing  
 378 for involuntary outpatient placement.

379 (b) Voluntary examination for outpatient placement.--A  
 380 patient may choose to be examined on an outpatient basis for an  
 381 involuntary outpatient placement certificate if such an  
 382 arrangement can be made. The certificate must be supported by  
 383 the opinion of a psychiatrist and the second opinion of a  
 384 clinical psychologist or another psychiatrist, both of whom have  
 385 personally examined the patient within the preceding 7 calendar  
 386 days, that the criteria for involuntary outpatient placement are

387 met. However, in a county having a population of less than  
 388 50,000, if the psychiatrist certifies that no psychiatrist or  
 389 clinical psychologist is available to provide the second  
 390 opinion, the second opinion may be provided by a licensed  
 391 physician who has postgraduate training and experience in  
 392 diagnosis and treatment of mental and nervous disorders or by a  
 393 psychiatric nurse.

394 (c) From a treatment facility.--If a patient in  
 395 involuntary inpatient placement meets the criteria for  
 396 involuntary outpatient placement, the administrator of the  
 397 treatment facility may, before expiration of the period during  
 398 which the treatment facility is authorized to retain the  
 399 patient, recommend involuntary outpatient placement. The  
 400 recommendation must be supported by the opinion of a  
 401 psychiatrist and the second opinion of a clinical psychologist  
 402 or another psychiatrist, both of whom have personally examined  
 403 the patient within the preceding 72 hours, that the criteria for  
 404 involuntary outpatient placement are met. However, in a county  
 405 having a population of less than 50,000, if the administrator  
 406 certifies that no psychiatrist or clinical psychologist is  
 407 available to provide the second opinion, such second opinion may  
 408 be provided by a licensed physician with postgraduate training  
 409 and experience in diagnosis and treatment of mental and nervous  
 410 disorders or by a psychiatric nurse. Such recommendation must be  
 411 entered on an involuntary outpatient placement certificate.

412 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.--

413 (a) A petition for involuntary outpatient placement may be  
 414 filed by:

415       1. The administrator of the facility pursuant to paragraph  
 416 (2)(a);

417       2. One of the examining professionals for persons examined  
 418 on a voluntary outpatient basis pursuant to paragraph (2)(b).  
 419 Upon filing the petition, the examining professional shall  
 420 provide a copy of the petition to the administrator of the  
 421 receiving facility or designated department representative that  
 422 will identify the service provider for the involuntary  
 423 outpatient placement unless the person is otherwise  
 424 participating in outpatient psychiatric treatment and is not in  
 425 need of public financing for that treatment, in which case the  
 426 person, if eligible, may be involuntarily committed to the  
 427 existing psychiatric treatment relationship; or

428       3. The administrator of a treatment facility pursuant to  
 429 paragraph (2)(c). Upon filing the petition, the administrator  
 430 shall provide a copy of the petition to the administrator of the  
 431 receiving facility or designated department representative that  
 432 will identify the service provider for the involuntary  
 433 outpatient placement unless the person is otherwise  
 434 participating in outpatient psychiatric treatment and is not in  
 435 need of public financing for that treatment, in which case the  
 436 person, if eligible, may be involuntarily committed to the  
 437 existing psychiatric treatment relationship.

438       (b) Each required criterion for involuntary outpatient  
 439 placement must be alleged and substantiated in the petition for  
 440 involuntary outpatient placement. A copy of the certificate  
 441 recommending involuntary outpatient placement completed by a  
 442 qualified professional specified in subsection (2) shall be

443 attached to the petition. A copy of the treatment plan specified  
444 in subparagraph (6)(b)2. must be attached to the petition. At  
445 the time the petition is filed, the service provider shall  
446 certify that the services in the proposed treatment plan are  
447 available. If the necessary services are not available in the  
448 patient's local community to respond to the person's individual  
449 needs, the petition may not be filed.

450 (c) The petition for involuntary outpatient placement must  
451 be filed in the county in which the patient is located. When the  
452 petition has been filed, the clerk of the court shall provide  
453 copies of the petition and the proposed treatment plan to the  
454 department, the patient, the patient's guardian or  
455 representative, and the state attorney and public defender of  
456 the judicial circuit in which the patient is located. A fee may  
457 not be charged for the filing of a petition under this  
458 subsection.

459 (4) APPOINTMENT OF COUNSEL.--Within 1 court working day  
460 after the filing of a petition for involuntary outpatient  
461 placement, the court shall appoint the public defender to  
462 represent the person who is the subject of the petition, unless  
463 the person is otherwise represented by counsel. The clerk of the  
464 court shall immediately notify the public defender of such  
465 appointment. The public defender shall represent the person  
466 until the petition is dismissed, the court order expires, or the  
467 patient is discharged from involuntary outpatient placement. An  
468 attorney who represents the patient shall have access to the  
469 patient, witnesses, and records relevant to the presentation of

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470 the patient's case and shall represent the interests of the  
471 patient, regardless of the source of payment to the attorney.

472 (5) CONTINUANCE OF HEARING.--The patient is entitled, with  
473 the concurrence of the patient's counsel, to at least one  
474 continuance of the hearing. The continuance shall be for a  
475 period of up to 4 weeks.

476 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.--

477 (a)1. The court shall hold the hearing on involuntary  
478 outpatient placement within 5 days after the petition is filed,  
479 unless a continuance is granted. The hearing shall be held in  
480 the county in which the patient is located, shall be as  
481 convenient to the patient as is consistent with orderly  
482 procedure, and shall be conducted in physical settings not  
483 likely to be injurious to the patient's condition. If the court  
484 finds that the patient's attendance at the hearing is not  
485 consistent with the best interests of the patient and the  
486 patient's counsel does not object, the court may waive the  
487 presence of the patient from all or any portion of the hearing.  
488 The state attorney for the circuit in which the patient is  
489 located shall represent the state, rather than the petitioner,  
490 as the real party in interest in the proceeding.

491 2. The court may appoint a master to preside at the  
492 hearing. One of the professionals who executed the involuntary  
493 outpatient placement certificate shall be a witness. The patient  
494 and the patient's guardian or representative shall be informed  
495 by the court of the right to an independent expert examination.  
496 If the patient cannot afford such an examination, the court  
497 shall provide for one. The independent expert's report shall be

498 confidential and not discoverable, unless the expert is to be  
499 called as a witness for the patient at the hearing. The court  
500 shall allow testimony from individuals, including family  
501 members, deemed by the court to be relevant under state law,  
502 regarding the person's prior history and how that prior history  
503 relates to the person's current condition. The testimony in the  
504 hearing must be given under oath and the proceedings must be  
505 recorded. The patient may refuse to testify at the hearing.

506 (b)1. If the court concludes that the patient meets the  
507 criteria for involuntary outpatient placement pursuant to  
508 subsection (1), the court shall issue an order for involuntary  
509 outpatient placement. The court order shall be for a period of  
510 up to 6 months. The service provider shall discharge a patient  
511 from involuntary outpatient treatment any time the patient no  
512 longer meets the criteria for involuntary placement.

513 2. The administrator of a receiving facility or a  
514 designated department representative shall identify the service  
515 provider that will have primary responsibility for service  
516 provision under the order. The service provider shall prepare a  
517 written proposed treatment plan and submit the plan to the court  
518 before the hearing for the court's consideration for inclusion  
519 in the involuntary outpatient placement order. The service  
520 provider shall also provide a copy of the proposed treatment  
521 plan to the petitioner. The treatment plan must specify the  
522 nature and extent of the patient's mental illness. The treatment  
523 plan may include provisions for case management, intensive case  
524 management, or assertive community treatment. The treatment plan  
525 may also require that the patient make use of a service provider

526 | to supply any of the following categories of services to the  
 527 | individual: medication, periodic urinalysis to determine  
 528 | compliance with treatment, individual or group therapy, day or  
 529 | partial-day programming activities, educational and vocational  
 530 | training or activities, alcohol or substance abuse treatment and  
 531 | counseling and periodic tests for the presence of alcohol or  
 532 | illegal drugs for persons with a history of alcohol or substance  
 533 | abuse, supervision of living arrangements, and any other  
 534 | services prescribed to treat the person's mental illness and to  
 535 | assist the person in living and functioning in the community or  
 536 | to attempt to prevent a relapse or deterioration. Service  
 537 | providers may select and provide supervision to other  
 538 | individuals, not enumerated in this subparagraph, to implement  
 539 | specific aspects of the treatment plan, such as medication  
 540 | monitoring. The services in the treatment plan shall be deemed  
 541 | to be clinically appropriate by a physician, clinical  
 542 | psychologist, mental health counselor, psychiatric nurse, or  
 543 | clinical social worker who consults with, or is employed or  
 544 | contracted by, the service provider. The service provider must  
 545 | certify to the court in the proposed treatment plan whether  
 546 | sufficient services for improvement and stabilization are  
 547 | currently available and whether the service provider agrees to  
 548 | provide those services. If the service provider certifies that  
 549 | the services in the proposed treatment plan are not available,  
 550 | the petitioner shall withdraw the petition. The court may not  
 551 | order the department or the service provider to provide services  
 552 | if the program or service is not available in the patient's  
 553 | local community, there is no space available in the program or

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554 service for the patient, or funding is not available for the  
555 program or service. A copy of the order must be sent to the  
556 Agency for Health Care Administration by the service provider  
557 within 1 working day after the order is received from the court.  
558 After the placement order is issued, the service provider and  
559 the patient may modify provisions of the treatment plan. For any  
560 material modification of the treatment plan to which the patient  
561 or the patient's guardian advocate, if appointed, does agree,  
562 the service provider shall send notice of the modification to  
563 the court. Any material modification of the treatment plan that  
564 is contested by the patient or the patient's guardian advocate,  
565 if appointed, must be in writing and prepared by the service  
566 provider or administrator for approval by the court.

567 3. If, in the clinical judgment of a physician, the  
568 patient has failed or refused to comply with the treatment  
569 ordered by the court and, in the clinical judgment of the  
570 physician, efforts were made to solicit compliance and the  
571 patient may meet the criteria for involuntary examination, a  
572 person may be brought to a receiving facility pursuant to s.  
573 394.463. If, after examination, the patient does not meet the  
574 criteria for involuntary inpatient placement pursuant to s.  
575 394.467, the patient must be discharged from the receiving  
576 facility. The service provider must determine whether  
577 modifications should be made to the existing treatment plan and  
578 must attempt to continue to engage the patient in treatment. For  
579 any material modification of the treatment plan to which the  
580 patient or the patient's guardian advocate, if appointed, does  
581 agree, the service provider shall send notice of the

582 modification to the court. Any material modification of the  
583 treatment plan that is contested by the patient or the patient's  
584 guardian advocate, if appointed, must be approved by the court.

585 (c) If, at any time before the conclusion of the initial  
586 hearing on involuntary outpatient placement, it appears to the  
587 court that the person does not meet the criteria for involuntary  
588 outpatient placement under this section but instead meets the  
589 criteria for involuntary inpatient placement, the court may  
590 order the person admitted for involuntary examination pursuant  
591 to s. 394.463. If the person instead meets the criteria for  
592 involuntary assessment, protective custody, or involuntary  
593 admission pursuant to s. 397.675, the court may order the person  
594 to be admitted for involuntary assessment for a period of 5 days  
595 pursuant to s. 397.6811. Thereafter, all proceedings shall be  
596 governed by chapter 397.

597 (d) At the hearing on involuntary outpatient placement,  
598 the court shall consider testimony and evidence regarding the  
599 patient's competence to consent to treatment. If the court finds  
600 that the patient is incompetent to consent to treatment, the  
601 court shall appoint a guardian advocate as provided in s.  
602 394.4598. The guardian advocate shall be appointed or discharged  
603 in accordance with s. 394.4598.

604 (e) The administrator of the receiving facility or the  
605 designated department representative shall provide a copy of the  
606 court order and adequate documentation of a patient's mental  
607 illness to the service provider for involuntary outpatient  
608 placement. Such documentation must include any advance  
609 directives made by the patient, a psychiatric evaluation of the

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610 patient, and any evaluations of the patient performed by a  
611 clinical psychologist, a mental health counselor, or a clinical  
612 social worker.

613 (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT  
614 PLACEMENT.--

615 (a) If the person continues to meet the criteria for  
616 involuntary outpatient placement, the service provider shall,  
617 before expiration of the period during which the treatment is  
618 ordered for the person, file in the circuit court a continued  
619 involuntary outpatient placement certificate which shall be  
620 accompanied by a statement from the person's physician or  
621 clinical psychologist justifying the request, a brief  
622 description of the patient's treatment during the time he or she  
623 was involuntarily placed, and an individualized plan of  
624 continued treatment.

625 (b) Within 1 court working day after the filing of a  
626 petition for continued involuntary outpatient placement, the  
627 court shall appoint the public defender to represent the person  
628 who is the subject of the petition, unless the person is  
629 otherwise represented by counsel. The clerk of the court shall  
630 immediately notify the public defender of such appointment. The  
631 public defender shall represent the person until the petition is  
632 dismissed, the court order expires, or the patient is discharged  
633 from involuntary outpatient placement. Any attorney representing  
634 the patient shall have access to the patient, witnesses, and  
635 records relevant to the presentation of the patient's case and  
636 shall represent the interests of the patient, regardless of the  
637 source of payment to the attorney.

638       (c) Hearings on petitions for continued involuntary  
 639 outpatient placement shall be before the circuit court. The  
 640 court may appoint a master to preside at the hearing. The  
 641 procedures for obtaining an order pursuant to this paragraph  
 642 shall be in accordance with the provisions of subsection (6),  
 643 except that the time period included in paragraph (1)(e) is not  
 644 applicable in determining the appropriateness of additional  
 645 periods of involuntary outpatient placement.

646       (d) Notice of the hearing shall be provided as set forth  
 647 in s. 394.4599. The patient and the patient's attorney may agree  
 648 to a period of continued outpatient placement without a court  
 649 hearing.

650       (e) The same procedure shall be repeated prior to the  
 651 expiration of each additional period the patient is placed in  
 652 treatment.

653       (f) If the patient has been previously found incompetent  
 654 to consent to treatment, the court shall consider testimony and  
 655 evidence regarding the patient's competence. Section 394.4598  
 656 governs the discharge of the guardian advocate if the patient's  
 657 competency to consent to treatment is restored.

658       Section 7. Section 394.467, Florida Statutes, is amended  
 659 to read:

660       394.467 Involuntary inpatient placement.--

661       (1) CRITERIA.--A person may be ~~involuntarily~~ placed in  
 662 involuntary inpatient placement for treatment upon a finding of  
 663 the court by clear and convincing evidence that:

664       (a) He or she is mentally ill and because of his or her  
 665 mental illness:

666 1.a. He or she has refused voluntary placement for  
667 treatment after sufficient and conscientious explanation and  
668 disclosure of the purpose of placement for treatment; or

669 b. He or she is unable to determine for himself or herself  
670 whether placement is necessary; and

671 2.a. He or she is manifestly incapable of surviving alone  
672 or with the help of willing and responsible family or friends,  
673 including available alternative services, and, without  
674 treatment, is likely to suffer from neglect or refuse to care  
675 for himself or herself, and such neglect or refusal poses a real  
676 and present threat of substantial harm to his or her well-being;  
677 or

678 b. There is substantial likelihood that in the near future  
679 he or she will inflict serious bodily harm on himself or herself  
680 or another person, as evidenced by recent behavior causing,  
681 attempting, or threatening such harm; and

682 (b) All available less restrictive treatment alternatives  
683 which would offer an opportunity for improvement of his or her  
684 condition have been judged to be inappropriate.

685 (2) ADMISSION TO A TREATMENT FACILITY.--A patient may be  
686 retained by a receiving facility or involuntarily placed in a  
687 treatment facility upon the recommendation of the administrator  
688 of a receiving facility where the patient has been examined and  
689 after adherence to the notice and hearing procedures provided in  
690 s. 394.4599. The recommendation must be supported by the opinion  
691 of a psychiatrist and the second opinion of a clinical  
692 psychologist or another psychiatrist, both of whom have  
693 personally examined the patient within the preceding 72 hours,

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694 that the criteria for involuntary inpatient placement are met.  
695 However, in counties of less than 50,000 population, if the  
696 administrator certifies that no psychiatrist or clinical  
697 psychologist is available to provide the second opinion, such  
698 second opinion may be provided by a licensed physician with  
699 postgraduate training and experience in diagnosis and treatment  
700 of mental and nervous disorders or by a psychiatric nurse. Such  
701 recommendation shall be entered on an involuntary inpatient  
702 placement certificate, which certificate shall authorize the  
703 receiving facility to retain the patient pending transfer to a  
704 treatment facility or completion of a hearing.

705 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.--The  
706 administrator of the facility shall file a petition for  
707 involuntary inpatient placement in the court in the county where  
708 the patient is located. Upon filing, the clerk of the court  
709 shall provide copies to the department, the patient, the  
710 patient's guardian or representative, and the state attorney and  
711 public defender of the judicial circuit in which the patient is  
712 located. No fee shall be charged for the filing of a petition  
713 under this subsection.

714 (4) APPOINTMENT OF COUNSEL.--Within 1 court working day  
715 after the filing of a petition for involuntary inpatient  
716 placement, the court shall appoint the public defender to  
717 represent the person who is the subject of the petition, unless  
718 the person is otherwise represented by counsel. The clerk of the  
719 court shall immediately notify the public defender of such  
720 appointment. Any attorney representing the patient shall have  
721 access to the patient, witnesses, and records relevant to the

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722 presentation of the patient's case and shall represent the  
723 interests of the patient, regardless of the source of payment to  
724 the attorney.

725 (5) CONTINUANCE OF HEARING.--The patient is entitled, with  
726 the concurrence of the patient's counsel, to at least one  
727 continuance of the hearing. The continuance shall be for a  
728 period of up to 4 weeks.

729 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.--

730 (a)1. The court shall hold the hearing on involuntary  
731 inpatient placement within 5 days, unless a continuance is  
732 granted. The hearing shall be held in the county where the  
733 patient is located and shall be as convenient to the patient as  
734 may be consistent with orderly procedure and shall be conducted  
735 in physical settings not likely to be injurious to the patient's  
736 condition. If the court finds that the patient's attendance at  
737 the hearing is not consistent with the best interests of the  
738 patient, and the patient's counsel does not object, the court  
739 may waive the presence of the patient from all or any portion of  
740 the hearing. The state attorney for the circuit in which the  
741 patient is located shall represent the state, rather than the  
742 petitioning facility administrator, as the real party in  
743 interest in the proceeding.

744 2. The court may appoint a master to preside at the  
745 hearing. One of the professionals who executed the involuntary  
746 inpatient placement certificate shall be a witness. The patient  
747 and the patient's guardian or representative shall be informed  
748 by the court of the right to an independent expert examination.  
749 If the patient cannot afford such an examination, the court

750 shall provide for one. The independent expert's report shall be  
751 confidential and not discoverable, unless the expert is to be  
752 called as a witness for the patient at the hearing. The  
753 testimony in the hearing must be given under oath, and the  
754 proceedings must be recorded. The patient may refuse to testify  
755 at the hearing.

756 (b) If the court concludes that the patient meets the  
757 criteria for involuntary inpatient placement, it shall order  
758 that the patient be transferred to a treatment facility or, if  
759 the patient is at a treatment facility, that the patient be  
760 retained there or be treated at any other appropriate receiving  
761 or treatment facility, or that the patient receive services from  
762 a receiving or treatment facility, on an involuntary basis, for  
763 a period of up to 6 months. The order shall specify the nature  
764 and extent of the patient's mental illness. The facility shall  
765 discharge a patient any time the patient no longer meets the  
766 criteria for involuntary inpatient placement, unless the patient  
767 has transferred to voluntary status.

768 (c) If at any time prior to the conclusion of the hearing  
769 on involuntary inpatient placement it appears to the court that  
770 the person does not meet the criteria for involuntary inpatient  
771 placement under this section ~~chapter~~, but instead meets the  
772 criteria for involuntary outpatient placement, the court may  
773 order the person evaluated for involuntary outpatient placement  
774 pursuant to s. 394.4655. The petition and hearing procedures set  
775 forth in s. 394.4655 shall apply. If the person instead meets  
776 the criteria for involuntary assessment, protective custody, or  
777 involuntary admission pursuant to s. 397.675, then the court may

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778 | order the person to be admitted for involuntary assessment for a  
779 | period of 5 days pursuant to s. 397.6811. Thereafter, all  
780 | proceedings shall be governed by chapter 397.

781 |         (d) At the hearing on involuntary inpatient placement, the  
782 | court shall consider testimony and evidence regarding the  
783 | patient's competence to consent to treatment. If the court finds  
784 | that the patient is incompetent to consent to treatment, it  
785 | shall appoint a guardian advocate as provided in s. 394.4598.

786 |         (e) The administrator of the receiving facility shall  
787 | provide a copy of the court order and adequate documentation of  
788 | a patient's mental illness to the administrator of a treatment  
789 | facility whenever a patient is ordered for involuntary inpatient  
790 | placement, whether by civil or criminal court. Such  
791 | documentation shall include any advance directives made by the  
792 | patient, a psychiatric evaluation of the patient, and any  
793 | evaluations of the patient performed by a clinical psychologist,  
794 | a mental health counselor, or a clinical social worker. The  
795 | administrator of a treatment facility may refuse admission to  
796 | any patient directed to its facilities on an involuntary basis,  
797 | whether by civil or criminal court order, who is not accompanied  
798 | at the same time by adequate orders and documentation.

799 |         (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT  
800 | PLACEMENT.--

801 |         (a) Hearings on petitions for continued involuntary  
802 | inpatient placement shall be administrative hearings and shall  
803 | be conducted in accordance with the provisions of s. 120.57(1),  
804 | except that any order entered by the hearing officer shall be  
805 | final and subject to judicial review in accordance with s.

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806 120.68. Orders concerning patients committed after successfully  
807 pleading not guilty by reason of insanity shall be governed by  
808 the provisions of s. 916.15.

809 (b) If the patient continues to meet the criteria for  
810 involuntary inpatient placement, the administrator shall, prior  
811 to the expiration of the period during which the treatment  
812 facility is authorized to retain the patient, file a petition  
813 requesting authorization for continued involuntary inpatient  
814 placement. The request shall be accompanied by a statement from  
815 the patient's physician or clinical psychologist justifying the  
816 request, a brief description of the patient's treatment during  
817 the time he or she was involuntarily placed, and an  
818 individualized plan of continued treatment. Notice of the  
819 hearing shall be provided as set forth in s. 394.4599. If at the  
820 hearing the hearing officer finds that attendance at the hearing  
821 is not consistent with the best interests of the patient, the  
822 hearing officer may waive the presence of the patient from all  
823 or any portion of the hearing, unless the patient, through  
824 counsel, objects to the waiver of presence. The testimony in the  
825 hearing must be under oath, and the proceedings must be  
826 recorded.

827 (c) Unless the patient is otherwise represented or is  
828 ineligible, he or she shall be represented at the hearing on the  
829 petition for continued involuntary inpatient placement by the  
830 public defender of the circuit in which the facility is located.

831 (d) If at a hearing it is shown that the patient continues  
832 to meet the criteria for involuntary inpatient placement, the  
833 administrative law judge shall sign the order for continued

834 involuntary inpatient placement for a period not to exceed 6  
835 months. The same procedure shall be repeated prior to the  
836 expiration of each additional period the patient is retained.

837 (e) If continued involuntary inpatient placement is  
838 necessary for a patient admitted while serving a criminal  
839 sentence, but whose sentence is about to expire, or for a  
840 patient involuntarily placed while a minor but who is about to  
841 reach the age of 18, the administrator shall petition the  
842 administrative law judge for an order authorizing continued  
843 involuntary inpatient placement.

844 (f) If the patient has been previously found incompetent  
845 to consent to treatment, the hearing officer shall consider  
846 testimony and evidence regarding the patient's competence. If  
847 the hearing officer finds evidence that the patient is now  
848 competent to consent to treatment, the hearing officer may issue  
849 a recommended order to the court that found the patient  
850 incompetent to consent to treatment that the patient's  
851 competence be restored and that any guardian advocate previously  
852 appointed be discharged.

853 (8) RETURN OF PATIENTS.--When a patient at a treatment  
854 facility leaves the facility without authorization, the  
855 administrator may authorize a search for the patient and the  
856 return of the patient to the facility. The administrator may  
857 request the assistance of a law enforcement agency in the search  
858 for and return of the patient.

859 Section 8. Paragraphs (a) and (c) of subsection (3) of  
860 section 394.495, Florida Statutes, are amended to read:

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861           394.495 Child and adolescent mental health system of care;  
862 programs and services.--

863           (3) Assessments must be performed by:

864           (a) A professional as defined in s. 394.455(2), (4),  
865 (24)~~(21)~~, (26)~~(23)~~, or (27)~~(24)~~;

866           (c) A person who is under the direct supervision of a  
867 professional as defined in s. 394.455(2), (4), (24)~~(21)~~,  
868 (26)~~(23)~~, or (27)~~(24)~~ or a professional licensed under chapter  
869 491.

870

871 The department shall adopt by rule statewide standards for  
872 mental health assessments, which must be based on current  
873 relevant professional and accreditation standards.

874           Section 9. Subsection (6) of section 394.496, Florida  
875 Statutes, is amended to read:

876           394.496 Service planning.--

877           (6) A professional as defined in s. 394.455(2), (4),  
878 (24)~~(21)~~, (26)~~(23)~~, or (27)~~(24)~~ or a professional licensed under  
879 chapter 491 must be included among those persons developing the  
880 services plan.

881           Section 10. Paragraphs (a) and (c) of subsection (4) of  
882 section 394.498, Florida Statutes, are amended to read:

883           394.498 Child and Adolescent Interagency System of Care  
884 Demonstration Models.--

885           (4) ESSENTIAL ELEMENTS.--

886           (a) In order to be approved as a Child and Adolescent  
887 Interagency System of Care Demonstration Model, the applicant

888 | must demonstrate its capacity to perform the following  
889 | functions:

890 |       1. Form a consortium of purchasers, which includes at  
891 | least three of the following agencies:

892 |           a. The Mental Health Program and Family Safety and  
893 | Preservation Program of the Department of Children and Family  
894 | Services.

895 |           b. The Medicaid program of the Agency for Health Care  
896 | Administration.

897 |           c. The local school district.

898 |           d. The Department of Juvenile Justice.

899 |

900 | Each agency that participates in the consortium shall enter into  
901 | a written interagency agreement that defines each agency's  
902 | responsibilities.

903 |       2. Establish an oversight body that is responsible for  
904 | directing the demonstration model. The oversight body must  
905 | include representatives from the state agencies that comprise  
906 | the consortium of purchasers under subparagraph 1., as well as  
907 | local governmental entities, a juvenile court judge, parents,  
908 | and other community entities. The responsibilities of the  
909 | oversight body must be specified in writing.

910 |       3. Select a target population of children and adolescents,  
911 | regardless of whether the child or adolescent is eligible or  
912 | ineligible for Medicaid, based on the following parameters:

913 |           a. The child or adolescent has a serious emotional  
914 | disturbance or mental illness, as defined in s. 394.492(6),  
915 | based on an assessment conducted by a licensed practitioner

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916 defined in s. 394.455(2), (4), (24)~~(21)~~, (26)~~(23)~~, or (27)~~(24)~~  
917 or by a professional licensed under chapter 491;

918 b. The total service costs per child or adolescent have  
919 exceeded \$3,000 per month;

920 c. The child or adolescent has had multiple out-of-home  
921 placements;

922 d. The existing array of services does not effectively  
923 meet the needs of the child or adolescent;

924 e. The case of the child or adolescent has been staffed by  
925 a district collaborative planning team and satisfactory results  
926 have not been achieved through existing case services plans; and

927 f. The parent or legal guardian of the child or adolescent  
928 consents to participating in the demonstration model.

929 4. Select a geographic site for the demonstration model. A  
930 demonstration model may be comprised of one or more counties and  
931 may include multiple service districts of the Department of  
932 Children and Family Services.

933 5. Develop a mechanism for selecting the pool of children  
934 and adolescents who meet the criteria specified in this section  
935 for participating in the demonstration model.

936 6. Establish a pooled funding plan that allocates  
937 proportionate costs to the purchasers. The plan must address all  
938 of the service needs of the child or adolescent, and funds may  
939 not be identified in the plan by legislative appropriation  
940 category or any other state or federal funding category.

941 a. The funding plan shall be developed based on an  
942 analysis of expenditures made by each participating state agency  
943 during the previous 2 fiscal years in which services were

944 provided for the target population or for individuals who have  
945 characteristics that are similar to the target population.

946 b. Based on the results of this cost analysis, funds shall  
947 be collected from each of the participating state agencies and  
948 deposited into a central financial account.

949 c. A financial body shall be designated to manage the pool  
950 of funds and shall have the capability to pay for individual  
951 services specified in a services plan.

952 7. Identify a care management entity that reports to the  
953 oversight body. For purposes of the demonstration models, the  
954 term "care management entity" means the entity that assumes  
955 responsibility for the organization, planning, purchasing, and  
956 management of mental health treatment services to the target  
957 population in the demonstration model. The care management  
958 entity may not provide direct services to the target population.  
959 The care management entity shall:

960 a. Manage the funds of the demonstration model within  
961 budget allocations. The administrative costs associated with the  
962 operation of the demonstration model must be itemized in the  
963 entity's operating budget.

964 b. Purchase individual services in a timely manner.

965 c. Review the completed client assessment information and  
966 complete additional assessments that are needed, including an  
967 assessment of the strengths of the child or adolescent and his  
968 or her family.

969 d. Organize a child-family team to develop a single,  
970 unified services plan for the child or adolescent, in accordance  
971 with ss. 394.490-394.497. The team shall include the parents and

972 other family members of the child or adolescent, friends and  
973 community-based supporters of the child or adolescent, and  
974 appropriate service providers who are familiar with the problems  
975 and needs of the child or adolescent and his or her family. The  
976 plan must include a statement concerning the strengths of the  
977 child or adolescent and his or her family, and must identify the  
978 natural supports in the family and the community that might be  
979 used in addressing the service needs of the child or adolescent.  
980 A copy of the completed service plan shall be provided to the  
981 parents of the child or adolescent.

982 e. Identify a network of providers that meet the  
983 requirements of paragraph (b).

984 f. Identify informal, unpaid supporters, such as persons  
985 from the child's or adolescent's neighborhood, civic  
986 organizations, clubs, and churches.

987 g. Identify additional service providers who can work  
988 effectively with the child or adolescent and his or her family,  
989 including, but not limited to, a home health aide, mentor,  
990 respite care worker, and in-home behavioral health care worker.

991 h. Implement a case management system that concentrates on  
992 the strengths of the child or adolescent and his or her family  
993 and uses these strengths in case planning and implementation  
994 activities. The case manager is primarily responsible for  
995 developing the services plan and shall report to the care  
996 management entity. The case manager shall monitor and oversee  
997 the services provided by the network of providers. The parents  
998 must be informed about contacting the care management entity or  
999 comparable entity to address concerns of the parents.

1000  
1001 Each person or organization that performs any of the care  
1002 management responsibilities specified in this subparagraph is  
1003 responsible only to the care management entity. However, such  
1004 care management responsibilities do not preclude the person or  
1005 organization from performing other responsibilities for another  
1006 agency or provider.

1007       8. Develop a mechanism for measuring compliance with the  
1008 goals of the demonstration models specified in subsection (2),  
1009 which mechanism includes qualitative and quantitative  
1010 performance outcomes, report on compliance rates, and conduct  
1011 quality improvement functions. At a minimum, the mechanism for  
1012 measuring compliance must include the outcomes and measures  
1013 established in the General Appropriations Act and the outcomes  
1014 and measures that are unique to the demonstration models.

1015       9. Develop mechanisms to ensure that family  
1016 representatives have a substantial role in planning the  
1017 demonstration model and in designing the instrument for  
1018 measuring the effectiveness of services provided.

1019       10. Develop and monitor grievance procedures.

1020       11. Develop policies to ensure that a child or adolescent  
1021 is not rejected or ejected from the demonstration model because  
1022 of a clinical condition or a specific service need.

1023       12. Develop policies to require that a participating state  
1024 agency remains a part of the demonstration model for its entire  
1025 duration.

1026       13. Obtain training for the staff involved in all aspects  
1027 of the project.

1028 (c) In order for children, adolescents, and families of  
 1029 children and adolescents to receive timely and effective  
 1030 services, the basic provider network identified in each  
 1031 demonstration model must be well designed and managed. The  
 1032 provider network should be able to meet the needs of a  
 1033 significant proportion of the target population. The applicant  
 1034 must demonstrate the capability to manage the network of  
 1035 providers for the purchasers that participate in the  
 1036 demonstration model. The applicant must demonstrate its ability  
 1037 to perform the following network management functions:

1038 1. Identify providers within the designated area of the  
 1039 demonstration model which are currently funded by the state  
 1040 agencies included in the model, and identify additional  
 1041 providers that are needed to provide additional services for the  
 1042 target population. The network of providers may include:

1043 a. Licensed mental health professionals as defined in s.  
 1044 394.455(2), (4), (24)~~(21)~~, (26)~~(23)~~, or (27)~~(24)~~;

1045 b. Professionals licensed under chapter 491;

1046 c. Teachers certified under s. 1012.56;

1047 d. Facilities licensed under chapter 395, as a hospital;  
 1048 s. 394.875, as a crisis stabilization unit or short-term  
 1049 residential facility; or s. 409.175, as a residential child-  
 1050 caring agency; and

1051 e. Other community agencies.

1052 2. Define access points and service linkages of providers  
 1053 in the network.

1054           3. Define the ways in which providers and participating  
1055 state agencies are expected to collaborate in providing  
1056 services.

1057           4. Define methods to measure the collective performance  
1058 outcomes of services provided by providers and state agencies,  
1059 measure the performance of individual agencies, and implement a  
1060 quality improvement process across the provider network.

1061           5. Develop brochures for family members which are written  
1062 in understandable terminology, to help families identify  
1063 appropriate service providers, choose the provider, and access  
1064 care directly whenever possible.

1065           6. Ensure that families are given a substantial role in  
1066 planning and monitoring the provider network.

1067           7. Train all providers with respect to the principles of  
1068 care outlined in this section, including effective techniques of  
1069 cooperation, the wraparound process and strengths-based  
1070 assessment, the development of service plans, and techniques of  
1071 case management.

1072           Section 11. Paragraph (d) of subsection (1) of section  
1073 419.001, Florida Statutes, is amended to read:

1074           419.001 Site selection of community residential homes.--

1075           (1) For the purposes of this section, the following  
1076 definitions shall apply:

1077           (d) "Resident" means any of the following: a frail elder  
1078 as defined in s. 400.618; a physically disabled or handicapped  
1079 person as defined in s. 760.22(7)(a); a developmentally disabled  
1080 person as defined in s. 393.063(12); a nondangerous mentally ill

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1081 person as defined in s. 394.455~~(21)(18)~~; or a child as defined  
1082 in s. 39.01(14), s. 984.03(9) or (12), or s. 985.03(8).

1083 Section 12. Subsection (7) of section 744.704, Florida  
1084 Statutes, is amended to read:

1085 744.704 Powers and duties.--

1086 (7) A public guardian shall not commit a ward to a mental  
1087 health treatment facility, as defined in s. 394.455~~(34)(30)~~,  
1088 without an involuntary placement proceeding as provided by law.

1089 Section 13. The Department of Children and Family Services  
1090 may adopt any rules necessary to implement the provisions of ss.  
1091 394.455, 394.4598, 394.4615, 394.463, and 394.467, Florida  
1092 Statutes, as amended or created by this act. These rules shall  
1093 be for the purpose of protecting the health, safety, and well-  
1094 being of persons examined, treated, or placed under this act.

1095 Section 14. If any provision of this act or its  
1096 application to any person or circumstance is held invalid, the  
1097 invalidity does not affect other provisions or applications of  
1098 the act which can be given effect without the invalid provision  
1099 or application, and to this end the provisions of this act are  
1100 severable.

1101 Section 15. This act shall take effect January 1, 2005.