



746564

586-04624A-08

Proposed Committee Substitute by the Committee on Children,
Families, and Elder Affairs

1 A bill to be entitled

2 An act relating to mental health and substance abuse;
3 amending s. 394.462, F.S.; providing for HIV testing of
4 persons being transported for mental health services upon
5 the request of law enforcement officers or other
6 designated agents who come into contact with the person's
7 body fluids; requiring the county health department to
8 provide HIV testing at no cost to such officers and
9 agents; amending s. 394.674, F.S.; establishing priority
10 populations who are eligible for services funded by the
11 Department of Children and Family Services; authorizing
12 the department to adopt rules; creating s. 394.4996, F.S.;
13 authorizing the department to establish facilities that
14 provide services as an integrated adult mental health
15 crisis stabilization unit and addictions receiving
16 facility; requiring licensure; providing eligibility
17 criteria for treatment services; authorizing the
18 department to adopt rules; amending s. 766.101, F.S.;
19 adding the department as a medical review committee to
20 evaluate the provision of mental health services in
21 certain facilities; adding facilities licensed under s.
22 394.875, F.S., to the definition of health care providers;
23 amending s. 553.80, F.S.; requiring that local
24 construction regulations for secure mental health
25 treatment facilities be enforced by the department;
26 amending s. 916.111, F.S.; requiring that a forensic
27 evaluator training course be provided annually in order



746564

586-04624A-08

28 | for mental health experts to be placed on the forensic
29 | evaluator registry; providing that mental health
30 | professionals that have taken the course within the last 5
31 | years remain on the registry; requiring mental health
32 | professionals on the registry to maintain training course
33 | documentation and provide the department with current
34 | information; amending s. 916.115, F.S.; allowing certain
35 | persons who are supervised by a person who has taken the
36 | forensic evaluator training course to assist in the
37 | forensic evaluation process; amending s. 916.13, F.S.;
38 | requiring defendants in the custody of the Department of
39 | Corrections who are adjudicated incompetent to remain in
40 | the custody of the Department of Corrections and receive
41 | treatment from the department; requiring the Department of
42 | Children and Family Services to determine whether the
43 | inmate has regained competency; providing timelines for
44 | competency hearings; amending s. 916.15, F.S.; providing a
45 | timeline for holding a commitment hearing for defendants
46 | who no longer meet the criteria for continued commitment
47 | by reason of insanity; providing an exception for
48 | defendants in the custody of the Department of
49 | Corrections; requiring defendants in the custody of the
50 | Department of Corrections who are charged with a new
51 | felony and found not guilty by reason of insanity to
52 | remain in the department's custody for the remainder of
53 | their sentence; requiring the Department of Children and
54 | Family Services to evaluate the inmate and file a report
55 | with the court requesting a hearing for determining
56 | continued commitment placement; requiring the Department of
57 | Children and Family Services and the Agency for Health



746564

586-04624A-08

58 Care Administration to prepare a mental health plan to be
59 submitted to the Legislature and the Governor; requiring a
60 study by the Office of Program Policy Analysis and
61 Governmental Accountability on mental health issues;
62 providing an effective date.

63
64 Be It Enacted by the Legislature of the State of Florida:

65
66 Section 1. Subsection (4) is added to section 394.462,
67 Florida Statutes, to read:

68 394.462 Transportation.--

69 (4) HIV EXPOSURE.--

70 (a) In any case in which a law enforcement officer;
71 employee of an emergency medical transport service, private
72 transport company contracting with the county, or mobile crisis
73 response service; or other designated agent of the county,
74 department, or the court comes into contact with or is exposed to
75 the body fluids of a person being taken into custody for the
76 purpose of delivering him or her to a receiving or treatment
77 facility, hospital, community mental health center, or other
78 facility authorized to provide mental health evaluations or
79 services pursuant to this chapter, the court shall, upon request
80 of the law enforcement officer, employee, or agent, order the
81 person to undergo HIV testing within 48 hours after the issuance
82 of the court order.

83 1. The testing shall be performed in accordance with s.
84 381.004.

85 2. The results of the test shall be disclosed to the law
86 enforcement officer, employee, or agent no later than 2 weeks
87 after the court receives the results.



746564

586-04624A-08

88 3. The results of the test are not admissible in any
89 subsequent court proceeding involving the person being
90 transported.

91 (b) A law enforcement officer; employee of an emergency
92 medical transport service, private transport company contracting
93 with the county, or mobile crisis response service; or other
94 designated agent of the county, department, or the court who
95 comes into contact with or is exposed to the body fluids of a
96 person being transported pursuant to this section and who
97 requests HIV testing may obtain such test from his or her
98 respective county health department at no cost.

99 Section 2. Section 394.674, Florida Statutes, is amended to
100 read:

101 394.674 ~~Clinical~~ Eligibility for publicly funded substance
102 abuse and mental health services; fee collection requirements.--

103 (1) To be eligible to receive substance abuse and mental
104 health services funded by the department, a person must be a
105 member of at least one of the department's priority populations
106 ~~target groups~~ approved by the Legislature, ~~pursuant to s.~~
107 ~~216.0166.~~ The priority populations include:

108 (a) For adult mental health services:

109 1. Adults who have severe and persistent mental illness, as
110 designated by the department using criteria which include
111 severity of diagnosis, duration of the mental illness, ability to
112 independently perform activities of daily living, and receipt of
113 disability income for a psychiatric condition. Within this group
114 priority populations include:

115 a. Older adults in crisis.

116 b. Older adults who are at risk of being placed in a more
117 restrictive environment because of their mental illness.



746564

586-04624A-08

- 118 | c. Individuals deemed incompetent to proceed or not guilty
119 | by reason of insanity under chapter 916.
- 120 | d. Other individuals with criminal justice involvement.
- 121 | 2. Adults experiencing an acute mental or emotional crisis
122 | as defined in s.394.67(18).
- 123 | (b) For children's mental health services:
- 124 | 1. Children who have a serious emotional disturbance.
- 125 | 2. Children who have an emotional disturbance.
- 126 | 3. Children who are at risk of emotional disturbance.
- 127 | (c) For substance abuse services:
- 128 | 1. Adults who have substance use disorders and have a
129 | history of intravenous drug use.
- 130 | 2. Persons dually diagnosed as having co-occurring
131 | substance abuse and mental health disorders.
- 132 | 3. Parents putting children at risk due to a substance
133 | abuse disorder.
- 134 | 4. Persons who have a substance abuse disorder and have
135 | been ordered by the court to receive treatment.
- 136 | 5. Children at risk for initiating drug use.
- 137 | 6. Children under state supervision.
- 138 | 7. Children who have a substance abuse disorder but who are
139 | not under the supervision of a court or in the custody of a state
140 | agency.
- 141 | 8. Persons identified as a priority population as a
142 | condition of the receipt of the Substance Abuse Block Grant.
- 143 | (2) Crisis services, as defined in s. 394.67, must, within
144 | the limitations of available state and local matching resources,
145 | be available to each person who is eligible for services under
146 | subsection (1), regardless of the person's ability to pay for
147 | such services. A person who is experiencing a mental health



746564

586-04624A-08

148 crisis and who does not meet the criteria for involuntary
149 examination under s. 394.463(1), or a person who is experiencing
150 a substance abuse crisis and who does not meet the involuntary
151 admission criteria in s. 397.675, must contribute to the cost of
152 his or her care and treatment pursuant to the sliding fee scale
153 developed under subsection (4), unless charging a fee is
154 contraindicated because of the crisis situation.

155 (3) Mental health services, substance abuse services, and
156 crisis services, as defined in s. 394.67, must, within the
157 limitations of available state and local matching resources, be
158 available to each person who is eligible for services under
159 subsection (1). Such person must contribute to the cost of his or
160 her care and treatment pursuant to the sliding fee scale
161 developed under subsection (4).

162 (4) The department shall adopt rules relating to client
163 ~~implement the clinical~~ eligibility, client enrollment, and fee
164 collection ~~requirements~~ for publicly funded substance abuse and
165 mental health services. The rules must require ~~that~~ each provider
166 under contract with the department which enrolls eligible persons
167 into treatment to develop a sliding fee scale for persons who
168 have a net family income at or above 150 percent of the Federal
169 Poverty Income Guidelines, unless otherwise required by state or
170 federal law. The sliding fee scale must use the uniform schedule
171 of discounts by which a provider under contract with the
172 department discounts its established client charges for services
173 supported with state, federal, or local funds, using, at a
174 minimum, factors such as family income, financial assets, and
175 family size as declared by the person or the person's guardian.
176 The rules must include uniform criteria to be used by all service
177 providers in developing the schedule of discounts for the sliding



746564

586-04624A-08

178 fee scale. The rules must address the most expensive types of
179 treatment, such as residential and inpatient treatment, in order
180 to make it possible for a client to responsibly contribute to his
181 or her mental health or substance abuse care without jeopardizing
182 the family's financial stability. A person who is not eligible
183 for Medicaid and whose net family income is less than 150 percent
184 of the Federal Poverty Income Guidelines must pay a portion of
185 his or her treatment costs which is comparable to the copayment
186 amount required by the Medicaid program for Medicaid clients
187 pursuant to s. 409.9081. The rules must require that persons who
188 receive financial assistance from the Federal Government because
189 of a disability and are in long-term residential treatment
190 settings contribute to their board and care costs and treatment
191 costs and must be consistent with the provisions in s. 409.212.

192 (5) A person who meets the eligibility criteria in
193 subsection (1) shall be served in accordance with the appropriate
194 district substance abuse and mental health services plan
195 specified in s. 394.75 and within available resources.

196 (6) The department may adopt rules to administer this
197 section.

198 Section 3. Section 394.4996, Florida Statutes, is created
199 to read:

200 394.4996 Integrated adult mental health crisis
201 stabilization and addictions receiving facilities.--

202 (1) Beginning July 1, 2008, the Agency for Health Care
203 Administration, in consultation with the Department of Children
204 and Family Services, may license facilities that integrate
205 services provided in an adult mental health crisis stabilization
206 unit with services provided in an adult addictions receiving
207 facility. Such a facility shall be licensed by the agency as an



746564

586-04624A-08

208 adult crisis stabilization unit under part IV and shall meet all
209 licensure requirements for crisis stabilization units providing
210 integrated services.

211 (2) An integrated mental health crisis stabilization unit
212 and addictions receiving facility may provide services under this
213 section to adults, 18 years of age or older, who fall into one or
214 more of the following categories:

215 (a) An adult meeting the requirements for voluntary
216 admission for mental health treatment under s. 394.4625.

217 (b) An adult meeting the criteria for involuntary
218 examination for mental illness under s. 394.463.

219 (c) An adult qualifying for voluntary admission for
220 substance abuse treatment under s. 397.601.

221 (d) An adult meeting the criteria for involuntary admission
222 for substance abuse impairment under s. 397.675.

223 (3) The department, in consultation with the agency, shall
224 adopt by rule standards that address eligibility criteria;
225 clinical procedures; staffing requirements; operational,
226 administrative, and financing requirements; and the investigation
227 of complaints. Standards that are implemented specific to
228 substance abuse treatment services shall meet or exceed existing
229 standards for addiction receiving facilities.

230 Section 4. Subsection (1) of section 766.101, Florida
231 Statutes, is amended to read:

232 766.101 Medical review committee, immunity from
233 liability.--

234 (1) As used in this section:

235 (a) The term "medical review committee" or "committee"
236 means:



746564

586-04624A-08

237 | 1.a. A committee of a hospital or ambulatory surgical
238 | center licensed under chapter 395 or a health maintenance
239 | organization certificated under part I of chapter 641;τ

240 | b. A committee of a physician-hospital organization, a
241 | provider-sponsored organization, or an integrated delivery
242 | system;τ

243 | c. A committee of a state or local professional society of
244 | health care providers;τ

245 | d. A committee of a medical staff of a licensed hospital or
246 | nursing home that, ~~provided the medical staff~~ operates pursuant
247 | to written bylaws that have been approved by the governing board
248 | of the hospital or nursing home;τ

249 | e. A committee of the Department of Corrections or the
250 | Correctional Medical Authority as created under s. 945.602, or
251 | employees, agents, or consultants of ~~either~~ the department or the
252 | authority or both;τ

253 | f. A committee of a professional service corporation formed
254 | under chapter 621 or a corporation organized under chapter 607 or
255 | chapter 617, which is formed and operated for the practice of
256 | medicine as defined in s. 458.305(3), and which has at least 25
257 | health care providers who routinely provide health care services
258 | directly to patients;τ

259 | g. A committee of employees, agents, or consultants of the
260 | Department of Children and Family Services which conducts peer
261 | reviews, utilization reviews, or mortality reviews of mental
262 | health treatment services provided to persons served under
263 | chapter 394;

264 | ~~h.g.~~ A committee of a mental health treatment facility
265 | licensed under chapter 394 or a community mental health center as
266 | defined in s. 394.907, provided the quality assurance program



746564

586-04624A-08

267 | operates pursuant to ~~the~~ guidelines that ~~which~~ have been approved
268 | by the governing board of the agency;;~~;~~

269 | ~~i.h.~~ A committee of a substance abuse treatment and
270 | education prevention program licensed under chapter 397 provided
271 | the quality assurance program operates pursuant to ~~the~~ guidelines
272 | that ~~which~~ have been approved by the governing board of the
273 | agency,

274 | ~~j.i.~~ A peer review or utilization review committee
275 | organized under chapter 440;;~~;~~

276 | ~~k.j.~~ A committee of the Department of Health, a county
277 | health department, healthy start coalition, or certified rural
278 | health network, when reviewing quality of care, or employees of
279 | these entities when reviewing mortality records;;~~;~~ or

280 | ~~l.k.~~ A continuous quality improvement committee of a
281 | pharmacy licensed pursuant to chapter 465;;~~;~~

282 |

283 | which committee is formed to evaluate and improve the quality of
284 | health care rendered by providers of health service or to
285 | determine that health services rendered were professionally
286 | indicated or were performed in compliance with the applicable
287 | standard of care or that the cost of health care rendered was
288 | considered reasonable by the providers of professional health
289 | services in the area; or

290 | 2. A committee of an insurer, self-insurer, or joint
291 | underwriting association of medical malpractice insurance, or
292 | other persons conducting review under s. 766.106.

293 | (b) The term "health care providers" means physicians
294 | licensed under chapter 458, osteopathic physicians licensed under
295 | chapter 459, podiatric physicians licensed under chapter 461,
296 | optometrists licensed under chapter 463, dentists licensed under



746564

586-04624A-08

297 | chapter 466, chiropractic physicians licensed under chapter 460,
298 | pharmacists licensed under chapter 465, ~~or~~ hospitals or
299 | ambulatory surgical centers licensed under chapter 395, or
300 | facilities licensed under s. 394.875.

301 | Section 5. Subsection (1) of section 553.80, Florida
302 | Statutes, is amended to read:

303 | 553.80 Enforcement.--

304 | (1) Except as provided in paragraphs (a)-(g) ~~(a)-(f)~~, each
305 | local government and each legally constituted enforcement
306 | district with statutory authority shall regulate building
307 | construction and, where authorized in the state agency's enabling
308 | legislation, each state agency shall enforce the Florida Building
309 | Code required by this part on all public or private buildings,
310 | structures, and facilities, unless such responsibility has been
311 | delegated to another unit of government pursuant to s. 553.79(9).

312 | (a) Construction regulations relating to correctional
313 | facilities under the jurisdiction of the Department of
314 | Corrections and the Department of Juvenile Justice are to be
315 | enforced exclusively by those departments.

316 | (b) Construction regulations relating to elevator equipment
317 | under the jurisdiction of the Bureau of Elevators of the
318 | Department of Business and Professional Regulation shall be
319 | enforced exclusively by that department.

320 | (c) Construction regulations relating to secure mental
321 | health treatment facilities under the jurisdiction of the
322 | Department of Children and Family Services shall be enforced
323 | exclusively by that department.

324 | (d)-(e) In addition to the requirements of s. 553.79 and
325 | this section, facilities subject to ~~the provisions of~~ chapter 395
326 | and part II of chapter 400 shall have facility plans reviewed and



746564

586-04624A-08

327 construction surveyed by the state agency authorized to do so
328 under the requirements of chapter 395 and part II of chapter 400
329 and the certification requirements of the Federal Government.

330 (e)~~(d)~~ Building plans approved under s. 553.77(3) and
331 state-approved manufactured buildings, including buildings
332 manufactured and assembled offsite and not intended for
333 habitation, such as lawn storage buildings and storage sheds, are
334 exempt from local code enforcing agency plan reviews except for
335 provisions of the code relating to erection, assembly, or
336 construction at the site. Erection, assembly, and construction at
337 the site are subject to local permitting and inspections. Lawn
338 storage buildings and storage sheds bearing the insignia of
339 approval of the department are not subject to s. 553.842. Such
340 buildings that do not exceed 400 square feet may be delivered and
341 installed without need of a contractor's or specialty license.

342 (f)~~(e)~~ Construction regulations governing public schools,
343 state universities, and community colleges shall be enforced as
344 provided in subsection (6).

345 (g)~~(f)~~ The Florida Building Code as it pertains to toll
346 collection facilities under the jurisdiction of the turnpike
347 enterprise of the Department of Transportation shall be enforced
348 exclusively by the turnpike enterprise.

349
350 The governing bodies of local governments may provide a schedule
351 of fees, as authorized by s. 125.56(2) or s. 166.222 and this
352 section, for the enforcement of ~~the provisions of~~ this part. Such
353 fees shall be used solely for carrying out the local government's
354 responsibilities in enforcing the Florida Building Code. The
355 authority of state enforcing agencies to set fees ~~for enforcement~~
356 shall be derived from authority existing on July 1, 1998.



746564

586-04624A-08

357 | However, ~~nothing contained in~~ this subsection does not shall
358 | ~~operate to~~ limit such agencies from adjusting their fee schedule
359 | in conformance with existing authority.

360 | Section 6. Section 916.111, Florida Statutes, is amended to
361 | read:

362 | 916.111 Training of mental health experts.--The evaluation
363 | of defendants for competency to proceed or for sanity at the time
364 | of the commission of the offense shall be conducted in such a way
365 | as to ensure uniform application of the criteria enumerated in
366 | Rules 3.210 and 3.216, Florida Rules of Criminal Procedure.

367 | (1) A forensic evaluator training course approved by the
368 | department must be provided at least annually to ensure that
369 | mental health professionals have the opportunity to be placed on
370 | the department's forensic evaluator registry.

371 | (a) Beginning July 1, 2009, experts shall remain on the
372 | registry if they have completed or retaken the required training
373 | within the previous 5 years. Those who have not completed the
374 | required training within the previous 5 years shall be removed
375 | from the registry and may not conduct evaluations for the courts.

376 | (b) A mental health professional who has completed the
377 | training course within the previous 5 years is responsible for
378 | maintaining documentation of completion of the required training
379 | and providing the department with current contact information
380 | during the 5-year period.

381 | (2) The department shall develop, and may contract with
382 | accredited institutions:

383 | (a) ~~(1)~~ To provide:

384 | 1. ~~(a)~~ A plan for training mental health professionals to
385 | perform forensic evaluations and to standardize the criteria and
386 | procedures to be used in these evaluations;



746564

586-04624A-08

387 2.~~(b)~~ Clinical protocols and procedures based upon the
388 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal
389 Procedure; and

390 3.~~(e)~~ Training for mental health professionals in the
391 application of these protocols and procedures in performing
392 forensic evaluations and providing reports to the courts; and

393 (b)~~(2)~~ To compile and maintain the necessary information
394 for evaluating the success of this program, including the number
395 of persons trained, the cost of operating the program, and the
396 effect on the quality of forensic evaluations as measured by
397 appropriateness of admissions to state forensic facilities and to
398 community-based care programs.

399 Section 7. Subsection (1) of section 916.115, Florida
400 Statutes, is amended to read:

401 916.115 Appointment of experts.--

402 (1) The court shall appoint no more than three experts to
403 determine the mental condition of a defendant in a criminal case,
404 including competency to proceed, insanity, involuntary placement,
405 and treatment. The experts may evaluate the defendant in jail or
406 in another appropriate local facility or in a facility of the
407 Department of Corrections.

408 (a) ~~To the extent possible, the~~ Appointed experts must
409 ~~shall~~ have completed forensic evaluator training as provided in
410 s. 916.111 ~~approved by the department~~, and each shall be a
411 psychiatrist, licensed psychologist, or physician.

412 (b) Graduate students completing a practicum or internship,
413 psychological specialists or counselors, and postdoctoral fellows
414 at the state's mental health treatment facilities may assist in
415 the evaluation process as long as their reports are overseen and



746564

586-04624A-08

416 signed by a supervising evaluator who has completed forensic
417 evaluator training within the previous 5 years.

418 (c) ~~(b)~~ The department shall maintain and annually provide
419 the courts with a forensic evaluator registry list ~~list~~ of available
420 mental health professionals who have completed the approved
421 training as experts.

422 Section 8. Section 916.13, Florida Statutes, is amended to
423 read:

424 916.13 Involuntary commitment of defendant adjudicated
425 incompetent.--

426 (1) Except for a defendant who is serving a sentence in the
427 custody of the Department of Corrections, a ~~Every~~ defendant who
428 is charged with a felony and who is adjudicated incompetent to
429 proceed may be involuntarily committed for treatment upon a
430 finding by the court of clear and convincing evidence that:

431 (a) The defendant has a mental illness and because of the
432 mental illness:

433 1. The defendant is manifestly incapable of surviving alone
434 or with the help of willing and responsible family or friends,
435 including available alternative services, and, without treatment,
436 the defendant is likely to suffer from neglect or refuse to care
437 for herself or himself and such neglect or refusal poses a real
438 and present threat of substantial harm to the defendant's well-
439 being; or

440 2. There is a substantial likelihood that in the near
441 future the defendant will inflict serious bodily harm on herself
442 or himself or another person, as evidenced by recent behavior
443 causing, attempting, or threatening such harm;

444 (b) All available, less restrictive treatment alternatives,
445 including treatment in community residential facilities or



746564

586-04624A-08

446 community inpatient or outpatient settings, which would offer an
447 opportunity for improvement of the defendant's condition have
448 been judged to be inappropriate; and

449 (c) There is a substantial probability that the mental
450 illness causing the defendant's incompetence will respond to
451 treatment and the defendant will regain competency to proceed in
452 the reasonably foreseeable future.

453 (2) (a) A defendant who has been charged with a felony and
454 who has been adjudicated incompetent to proceed due to mental
455 illness, and who meets the criteria for involuntary commitment ~~to~~
456 ~~the department~~ under ~~the provisions of~~ this chapter, may be
457 committed to the department, and the department shall retain and
458 treat the defendant. Within ~~No later than~~ 6 months after the date
459 of admission and at the end of any period of extended commitment,
460 or at any time the administrator or designee shall have
461 determined that the defendant has regained competency to proceed
462 or no longer meets the criteria for continued commitment, the
463 administrator or designee shall file a report with the court
464 pursuant to the applicable Florida Rules of Criminal Procedure.

465 (b) A defendant who is serving a sentence in the custody of
466 the Department of Corrections, who is charged with a new felony
467 or is entitled to a mandatory appeal pursuant to Rule 3.851,
468 Florida Rules of Criminal Procedure, and who has been adjudicated
469 incompetent to proceed due to mental illness shall be retained in
470 the physical custody of the Department of Corrections and the
471 department shall administer a lesson plan for competency
472 restoration training provided by the Department of Children and
473 Family Services. Within 6 months after the administration of the
474 lesson plan and every 12 months thereafter, or at any time the
475 Department of Children and Family Services determines that the



746564

586-04624A-08

476 defendant has regained competency to proceed, the Department of
477 Children and Family Services shall file a report with the court
478 pursuant to the applicable Florida Rules of Criminal Procedure.

479 (c) Within 15 days after the court receives notification
480 that a defendant is competent to proceed or no longer meets the
481 criteria for continued commitment, the defendant shall be
482 transported back to jail pursuant to s. 916.107(10) for the
483 purpose of holding a competency hearing.

484 (d) A competency hearing shall be held within 30 days after
485 a court receives notification that the defendant is competent to
486 proceed.

487 Section 9. Section 916.15, Florida Statutes, is amended to
488 read:

489 916.15 Involuntary commitment of defendant adjudicated not
490 guilty by reason of insanity.--

491 (1) The determination of whether a defendant is not guilty
492 by reason of insanity shall be determined in accordance with Rule
493 3.217, Florida Rules of Criminal Procedure.

494 (2) Except for a defendant who is serving a sentence in the
495 custody of the Department of Corrections, a defendant who is
496 acquitted of criminal charges because of a finding of not guilty
497 by reason of insanity may be involuntarily committed pursuant to
498 such finding if the defendant has a mental illness and, because
499 of the illness, is manifestly dangerous to himself or herself or
500 others.

501 (3) Except for a defendant who is serving a sentence in the
502 custody of the Department of Corrections, a ~~Every~~ defendant
503 acquitted of criminal charges by reason of insanity and found to
504 meet the criteria for involuntary commitment may be committed and
505 treated in accordance with ~~the provisions of~~ this section and the



746564

586-04624A-08

506 applicable Florida Rules of Criminal Procedure. The department
507 shall admit a defendant so adjudicated to an appropriate facility
508 or program for treatment and shall retain and treat such
509 defendant.

510 (a) Within ~~No later than~~ 6 months after the date of
511 admission, prior to the end of any period of extended commitment,
512 or at any time the administrator or designee ~~has~~ shall have
513 determined that the defendant no longer meets the criteria for
514 continued commitment placement, the administrator or designee
515 shall file a report with the court pursuant to the applicable
516 Florida Rules of Criminal Procedure.

517 (b) Within 15 days after the court receives notification
518 that the defendant no longer meets the criteria for continued
519 commitment placement, the defendant shall, pursuant to s.
520 916.107(10), be transported back to jail for the purpose of
521 holding a commitment hearing.

522 (c) A commitment hearing shall be held within 30 days after
523 the court receives notification that the defendant no longer
524 meets the criteria for continued commitment placement.

525 (4) A defendant who is serving a sentence in the custody of
526 the Department of Corrections, who has been charged with a new
527 felony, and who has been adjudicated not guilty by reason of
528 insanity shall be retained in the physical custody of the
529 Department of Corrections for the remainder of his or her
530 sentence. Within 30 days before the defendant's anticipated
531 release date, the Department of Children and Family Services
532 shall evaluate the defendant and file a report with the court
533 requesting that the defendant be returned to the court's
534 jurisdiction to determine if the defendant continues to meet the
535 criteria for continued commitment placement.



746564

586-04624A-08

536 (5)~~(4)~~ In all proceedings under this section, both the
537 defendant and the state shall have the right to a hearing before
538 the committing court. Evidence at such hearing may be presented
539 by the hospital administrator or the administrator's designee as
540 well as by the state and the defendant. The defendant shall have
541 the right to counsel at any such hearing. If ~~In the event that~~ a
542 defendant is determined to be indigent pursuant to s. 27.52, the
543 public defender shall represent the defendant. The parties shall
544 have access to the defendant's records at the treating facilities
545 and may interview or depose personnel who have had contact with
546 the defendant at the treating facilities.

547 Section 10. The Department of Children and Family Services
548 and the Agency for Health Care Administration, in consultation
549 with the Florida Substance Abuse and Mental Health Corporation
550 and the Criminal Justice, Mental Health, and Substance Abuse
551 Technical Assistance Center, shall prepare a plan relating to the
552 provision and management of mental health services for
553 consideration by the Legislature.

554 (1) The plan shall, at a minimum, include the following:

555 (a) A review and evaluation of the structure of governance
556 of mental health services and recommendations that will improve
557 the coordination of services at the local and state level,
558 maximize the use of resources, and inform and link target
559 populations with available services.

560 (b) A review and evaluation of, and recommendations
561 concerning, the development of methodologies to accurately
562 estimate target populations for mental health services, the
563 service needs of each target population, and the availability of
564 services.



746564

586-04624A-08

565 (c) Proposed guidelines for the development and
566 implementation of community-based mental health programs and
567 services that reduce the likelihood of future involvement with
568 the criminal justice system.

569 (d) Proposed guidelines for the development and
570 implementation of programs and services that facilitate the
571 transition and successful reentry into the community by providing
572 a continuum of mental health services to persons released from
573 criminal justice or forensic facilities.

574 (e) Recommended performance measures and reporting
575 requirements for state and local programs and services specified
576 in paragraphs (c) and (d).

577 (f) Proposed guidelines and strategies for providing a
578 continuum of care to persons receiving competency restoration
579 services.

580 (2) The plan shall be submitted to the Governor, the
581 President of the Senate, and the Speaker of the House of
582 Representatives by January 1, 2010.

583 Section 11. The Office of Program Policy Analysis and
584 Government Accountability shall conduct a study and make
585 recommendations relating to mental health services by January
586 2009. The study shall include a review of the following:

587 (1) Mental health courts in this state compared with
588 similar courts in other states.

589 (2) Mental health funding in this state compared with
590 mental health funding in other states.

591 (3) A review of cost-containment strategies for mental
592 health services in other states.

593 (4) Mental health diversion programs in this state compared
594 with similar programs in other states.



746564

586-04624A-08

595

Section 12. This act shall take effect July 1, 2008.