

By the Committee on Children, Families, and Elder Affairs; and  
Senator Storms

586-05907-08

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1                   A bill to be entitled  
2           An act relating to mental health and substance abuse;  
3           amending s. 394.4572, F.S.; requiring level II screening  
4           for all personnel who work with persons with mental  
5           illness; amending s. 394.462, F.S.; providing for HIV  
6           testing of persons being transported for mental health  
7           services upon the request of law enforcement officers or  
8           other designated agents who come into contact with the  
9           person's body fluids; requiring the county health  
10          department to provide HIV testing at no cost to such  
11          officers and agents; amending s. 394.67, F.S.; removing an  
12          obsolete reference to a corporation's contract with the  
13          Department of Children and Family Services and adding a  
14          reference to a corporation's licensure by the Agency for  
15          Health Care Administration to the definition of  
16          residential treatment center for children and adolescents;  
17          amending s. 394.674, F.S.; establishing priority  
18          populations who are eligible for services funded by the  
19          Department of Children and Family Services; authorizing  
20          the department to adopt rules; creating s. 394.4996, F.S.;  
21          authorizing the department to establish facilities that  
22          provide services as an integrated adult mental health  
23          crisis stabilization unit and addictions receiving  
24          facility; requiring licensure; providing eligibility  
25          criteria for treatment services; authorizing the  
26          department to adopt rules; amending s. 553.80, F.S.;  
27          requiring that local construction regulations for secure  
28          mental health treatment facilities be enforced by the  
29          department; amending s. 916.111, F.S.; requiring that a

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

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59 continued commitment placement; amending s. 985.19, F.S.;  
60 requiring that experts appointed in juvenile incompetent-  
61 to-proceed cases be a psychiatrist, licensed psychologist,  
62 or physician and have completed the forensic evaluator  
63 training within 5 years prior to conducting evaluations  
64 for the court; providing that, beginning July 1, 2009,  
65 experts who have completed or retaken the course within  
66 the last 5 years remain on the registry; requiring experts  
67 on the registry to maintain training course documentation  
68 and provide the department with current information;  
69 requiring the Department of Children and Family Services  
70 and the Agency for Health Care Administration to prepare a  
71 mental health plan to be submitted to the Legislature and  
72 the Governor; requiring a study by the Office of Program  
73 Policy Analysis and Governmental Accountability on mental  
74 health issues; providing an effective date.

75  
76 Be It Enacted by the Legislature of the State of Florida:

77  
78 Section 1. Subsection (1) of section 394.4572, Florida  
79 Statutes, is amended to read:

80 394.4572 Screening of mental health personnel.--

81 (1)(a) The department and the Agency for Health Care  
82 Administration shall require employment screening for mental  
83 health personnel using the standards for level 2 screening set  
84 forth in chapter 435. "Mental health personnel" includes all  
85 program directors, professional clinicians, staff members, and  
86 volunteers working in public or private mental health programs  
87 and facilities who have direct contact with ~~unmarried~~ patients

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88 ~~under the age of 18 years.~~ For purposes of this chapter,  
89 employment screening of mental health personnel shall also  
90 include, but is not limited to, employment screening as provided  
91 under chapter 435.

92 (b) Students in the health care professions who are  
93 interning in a mental health facility licensed under chapter 395,  
94 where the primary purpose of the facility is not the treatment of  
95 minors, are exempt from the fingerprinting and screening  
96 requirements, provided they are under direct supervision in the  
97 actual physical presence of a licensed health care professional.

98 ~~(c) Mental health personnel working in a facility licensed~~  
99 ~~under chapter 395 who have less than 15 hours per week of direct~~  
100 ~~contact with patients or who are health care professionals~~  
101 ~~licensed by the Agency for Health Care Administration or a board~~  
102 ~~thereunder are exempt from the fingerprinting and screening~~  
103 ~~requirements, except for persons working in mental health~~  
104 ~~facilities where the primary purpose of the facility is the~~  
105 ~~treatment of minors.~~

106 (c)(d) A volunteer who assists on an intermittent basis for  
107 less than 40 hours per month is exempt from the fingerprinting  
108 and screening requirements, provided the volunteer is under  
109 direct and constant supervision by persons who meet the screening  
110 requirements of paragraph (a).

111 Section 2. Subsection (4) is added to section 394.462,  
112 Florida Statutes, to read:

113 394.462 Transportation.--

114 (4) HIV EXPOSURE.--

115 (a) In any case in which a law enforcement officer;  
116 employee of an emergency medical transport service, private

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117 transport company contracting with the county, or mobile crisis  
118 response service; or other designated agent of the county,  
119 department, or the court comes into contact with or is exposed to  
120 the body fluids of a person being taken into custody for the  
121 purpose of delivering him or her to a receiving or treatment  
122 facility, hospital, community mental health center, or other  
123 facility authorized to provide mental health evaluations or  
124 services pursuant to this chapter, the court shall, upon request  
125 of the law enforcement officer, employee, or agent, order the  
126 person to undergo HIV testing within 48 hours after the issuance  
127 of the court order.

128 1. The testing shall be performed in accordance with s.  
129 381.004.

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

133 3. The results of the test are not admissible in any  
134 subsequent court proceeding involving the person being  
135 transported.

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

144 Section 3. Subsection (21) of section 394.67, Florida  
145 Statutes, is amended to read:

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146 394.67 Definitions.--As used in this part, the term:

147 (21) "Residential treatment center for children and  
148 adolescents" means a 24-hour residential program, including a  
149 therapeutic group home, which provides mental health services to  
150 emotionally disturbed children or adolescents as defined in s.  
151 394.492(5) or (6) and which is a private for-profit or not-for-  
152 profit corporation licensed by the Agency for Health Care  
153 Administration under contract with the department which offers a  
154 variety of treatment modalities in a more restrictive setting.

155 Section 4. Section 394.674, Florida Statutes, is amended to  
156 read:

157 394.674 ~~Clinical~~ Eligibility for publicly funded substance  
158 abuse and mental health services; fee collection requirements.--

159 (1) To be eligible to receive substance abuse and mental  
160 health services funded by the department, a person must be a  
161 member of at least one of the department's priority populations  
162 ~~target groups~~ approved by the Legislature, ~~pursuant to s.~~  
163 ~~216.0166.~~ The priority populations include:

164 (a) For adult mental health services:

165 1. Adults who have severe and persistent mental illness, as  
166 designated by the department using criteria which include  
167 severity of diagnosis, duration of the mental illness, ability to  
168 independently perform activities of daily living, and receipt of  
169 disability income for a psychiatric condition. Within this group  
170 priority populations include:

171 a. Older adults in crisis.

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

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174 c. Individuals deemed incompetent to proceed or not guilty  
175 by reason of insanity under chapter 916.

176 d. Other individuals with criminal justice involvement.

177 e. Individuals who have co-occurring mental illness and  
178 substance use disorders.

179 2. Adults experiencing an acute mental or emotional crisis  
180 as defined in s.394.67(18).

181 (b) For children's mental health services:

182 1. Children who have a serious emotional disturbance.

183 2. Children who have an emotional disturbance.

184 3. Children who are at risk of emotional disturbance.

185 (c) For substance abuse services:

186 1. Adults who have substance use disorders and have a  
187 history of intravenous drug use.

188 2. Persons dually diagnosed as having co-occurring  
189 substance abuse and mental health disorders.

190 3. Parents putting children at risk due to a substance  
191 abuse disorder.

192 4. Persons who have a substance abuse disorder and have  
193 been ordered by the court to receive treatment.

194 5. Children at risk for initiating drug use.

195 6. Children under state supervision.

196 7. Children who have a substance abuse disorder but who are  
197 not under the supervision of a court or in the custody of a state  
198 agency.

199 8. Persons identified as a priority population as a  
200 condition of the receipt of the Substance Abuse Block Grant.

201 (2) Crisis services, as defined in s. 394.67, must, within  
202 the limitations of available state and local matching resources,

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203 | be available to each person who is eligible for services under  
204 | subsection (1), regardless of the person's ability to pay for  
205 | such services. A person who is experiencing a mental health  
206 | crisis and who does not meet the criteria for involuntary  
207 | examination under s. 394.463(1), or a person who is experiencing  
208 | a substance abuse crisis and who does not meet the involuntary  
209 | admission criteria in s. 397.675, must contribute to the cost of  
210 | his or her care and treatment pursuant to the sliding fee scale  
211 | developed under subsection (4), unless charging a fee is  
212 | contraindicated because of the crisis situation.

213 |       (3) Mental health services, substance abuse services, and  
214 | crisis services, as defined in s. 394.67, must, within the  
215 | limitations of available state and local matching resources, be  
216 | available to each person who is eligible for services under  
217 | subsection (1). Such person must contribute to the cost of his or  
218 | her care and treatment pursuant to the sliding fee scale  
219 | developed under subsection (4).

220 |       (4) The department shall adopt rules relating to client  
221 | ~~implement the clinical~~ eligibility, client enrollment, and fee  
222 | collection ~~requirements~~ for publicly funded substance abuse and  
223 | mental health services. The rules must require ~~that~~ each provider  
224 | under contract with the department which enrolls eligible persons  
225 | into treatment to develop a sliding fee scale for persons who  
226 | have a net family income at or above 150 percent of the Federal  
227 | Poverty Income Guidelines, unless otherwise required by state or  
228 | federal law. The sliding fee scale must use the uniform schedule  
229 | of discounts by which a provider under contract with the  
230 | department discounts its established client charges for services  
231 | supported with state, federal, or local funds, using, at a

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232 minimum, factors such as family income, financial assets, and  
233 family size as declared by the person or the person's guardian.  
234 The rules must include uniform criteria to be used by all service  
235 providers in developing the schedule of discounts for the sliding  
236 fee scale. The rules must address the most expensive types of  
237 treatment, such as residential and inpatient treatment, in order  
238 to make it possible for a client to responsibly contribute to his  
239 or her mental health or substance abuse care without jeopardizing  
240 the family's financial stability. A person who is not eligible  
241 for Medicaid and whose net family income is less than 150 percent  
242 of the Federal Poverty Income Guidelines must pay a portion of  
243 his or her treatment costs which is comparable to the copayment  
244 amount required by the Medicaid program for Medicaid clients  
245 pursuant to s. 409.9081. The rules must require that persons who  
246 receive financial assistance from the Federal Government because  
247 of a disability and are in long-term residential treatment  
248 settings contribute to their board and care costs and treatment  
249 costs and must be consistent with the provisions in s. 409.212.

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

254 (6) The department may adopt rules to administer this  
255 section.

256 Section 5. Section 394.4996, Florida Statutes, is created  
257 to read:

258 394.4996 Integrated adult mental health crisis  
259 stabilization and addictions receiving facilities.--

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260       (1) Beginning July 1, 2008, the Agency for Health Care  
261 Administration, in consultation with the Department of Children  
262 and Family Services, may license facilities that integrate  
263 services provided in an adult mental health crisis stabilization  
264 unit with services provided in an adult addictions receiving  
265 facility. Such a facility shall be licensed by the agency as an  
266 adult crisis stabilization unit under part IV and shall meet all  
267 licensure requirements for crisis stabilization units providing  
268 integrated services.

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

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

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

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

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

281       (3) The department, in consultation with the agency, shall  
282 adopt by rule standards that address eligibility criteria;  
283 clinical procedures; staffing requirements; operational,  
284 administrative, and financing requirements; and the investigation  
285 of complaints. Standards that are implemented specific to  
286 substance abuse treatment services shall meet or exceed existing  
287 standards for addiction receiving facilities.

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288 Section 6. Subsection (1) of section 553.80, Florida  
289 Statutes, is amended to read:

290 553.80 Enforcement.--

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

299 (a) Construction regulations relating to correctional  
300 facilities under the jurisdiction of the Department of  
301 Corrections and the Department of Juvenile Justice are to be  
302 enforced exclusively by those departments.

303 (b) Construction regulations relating to elevator equipment  
304 under the jurisdiction of the Bureau of Elevators of the  
305 Department of Business and Professional Regulation shall be  
306 enforced exclusively by that department.

307 (c) Construction regulations relating to secure mental  
308 health treatment facilities under the jurisdiction of the  
309 Department of Children and Family Services shall be enforced  
310 exclusively by that department.

311 (d) ~~(e)~~ In addition to the requirements of s. 553.79 and  
312 this section, facilities subject to ~~the provisions of~~ chapter 395  
313 and part II of chapter 400 shall have facility plans reviewed and  
314 construction surveyed by the state agency authorized to do so  
315 under the requirements of chapter 395 and part II of chapter 400  
316 and the certification requirements of the Federal Government.

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317        (e)~~(d)~~ Building plans approved under s. 553.77(3) and  
318 state-approved manufactured buildings, including buildings  
319 manufactured and assembled offsite and not intended for  
320 habitation, such as lawn storage buildings and storage sheds, are  
321 exempt from local code enforcing agency plan reviews except for  
322 provisions of the code relating to erection, assembly, or  
323 construction at the site. Erection, assembly, and construction at  
324 the site are subject to local permitting and inspections. Lawn  
325 storage buildings and storage sheds bearing the insignia of  
326 approval of the department are not subject to s. 553.842. Such  
327 buildings that do not exceed 400 square feet may be delivered and  
328 installed without need of a contractor's or specialty license.

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

332        (g)~~(f)~~ The Florida Building Code as it pertains to toll  
333 collection facilities under the jurisdiction of the turnpike  
334 enterprise of the Department of Transportation shall be enforced  
335 exclusively by the turnpike enterprise.

336  
337 The governing bodies of local governments may provide a schedule  
338 of fees, as authorized by s. 125.56(2) or s. 166.222 and this  
339 section, for the enforcement of ~~the provisions of~~ this part. Such  
340 fees shall be used solely for carrying out the local government's  
341 responsibilities in enforcing the Florida Building Code. The  
342 authority of state enforcing agencies to set fees ~~for enforcement~~  
343 shall be derived from authority existing on July 1, 1998.  
344 However, ~~nothing contained in~~ this subsection does not shall

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345 ~~operate to~~ limit such agencies from adjusting their fee schedule  
346 in conformance with existing authority.

347 Section 7. Section 916.111, Florida Statutes, is amended to  
348 read:

349 916.111 Training of mental health experts.--The evaluation  
350 of defendants for competency to proceed or for sanity at the time  
351 of the commission of the offense shall be conducted in such a way  
352 as to ensure uniform application of the criteria enumerated in  
353 Rules 3.210 and 3.216, Florida Rules of Criminal Procedure.

354 (1) A forensic evaluator training course approved by the  
355 department must be provided at least annually to ensure that  
356 mental health professionals have the opportunity to be placed on  
357 the department's forensic evaluator registry.

358 (a) Beginning July 1, 2009, experts shall remain on the  
359 registry if they have completed or retaken the required training  
360 within the previous 5 years. Those who have not completed the  
361 required training within the previous 5 years shall be removed  
362 from the registry and may not conduct evaluations for the courts.

363 (b) A mental health professional who has completed the  
364 training course within the previous 5 years is responsible for  
365 maintaining documentation of completion of the required training  
366 and providing the department with current contact information  
367 during the 5-year period.

368 (2) The department shall develop, and may contract with  
369 accredited institutions:

370 (a) ~~(1)~~ To provide:

371 1. ~~(a)~~ A plan for training mental health professionals to  
372 perform forensic evaluations and to standardize the criteria and  
373 procedures to be used in these evaluations;

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374        ~~2.(b)~~ Clinical protocols and procedures based upon the  
375 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal  
376 Procedure; and

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

380        ~~(b)(2)~~ To compile and maintain the necessary information  
381 for evaluating the success of this program, including the number  
382 of persons trained, the cost of operating the program, and the  
383 effect on the quality of forensic evaluations as measured by  
384 appropriateness of admissions to state forensic facilities and to  
385 community-based care programs.

386        Section 8. Subsection (1) of section 916.115, Florida  
387 Statutes, is amended to read:

388        916.115 Appointment of experts.--

389        (1) The court shall appoint no more than three experts to  
390 determine the mental condition of a defendant in a criminal case,  
391 including competency to proceed, insanity, involuntary placement,  
392 and treatment. The experts may evaluate the defendant in jail or  
393 in another appropriate local facility or in a facility of the  
394 Department of Corrections.

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

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

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

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

409 Section 9. Section 916.13, Florida Statutes, is amended to  
410 read:

411 916.13 Involuntary commitment of defendant adjudicated  
412 incompetent.--

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

418 (a) The defendant has a mental illness and because of the  
419 mental illness:

420 1. The defendant is manifestly incapable of surviving alone  
421 or with the help of willing and responsible family or friends,  
422 including available alternative services, and, without treatment,  
423 the defendant is likely to suffer from neglect or refuse to care  
424 for herself or himself and such neglect or refusal poses a real  
425 and present threat of substantial harm to the defendant's well-  
426 being; or

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

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431 (b) All available, less restrictive treatment alternatives,  
432 including treatment in community residential facilities or  
433 community inpatient or outpatient settings, which would offer an  
434 opportunity for improvement of the defendant's condition have  
435 been judged to be inappropriate; and

436 (c) There is a substantial probability that the mental  
437 illness causing the defendant's incompetence will respond to  
438 treatment and the defendant will regain competency to proceed in  
439 the reasonably foreseeable future.

440 (2) (a) A defendant who has been charged with a felony and  
441 who has been adjudicated incompetent to proceed due to mental  
442 illness, and who meets the criteria for involuntary commitment ~~to~~  
443 ~~the department~~ under ~~the provisions of~~ this chapter, may be  
444 committed to the department, and the department shall retain and  
445 treat the defendant. Within ~~No later than~~ 6 months after the date  
446 of admission and at the end of any period of extended commitment,  
447 or at any time the administrator or designee shall have  
448 determined that the defendant has regained competency to proceed  
449 or no longer meets the criteria for continued commitment, the  
450 administrator or designee shall file a report with the court  
451 pursuant to the applicable Florida Rules of Criminal Procedure.

452 (b) A defendant who is serving a sentence in the custody of  
453 the Department of Corrections, who is charged with a new felony  
454 or is entitled to a mandatory appeal pursuant to Rule 3.851,  
455 Florida Rules of Criminal Procedure, and who has been adjudicated  
456 incompetent to proceed due to mental illness shall be retained in  
457 the physical custody of the Department of Corrections and the  
458 department shall administer a lesson plan for competency  
459 restoration training provided by the Department of Children and

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460 Family Services. Within 6 months after the administration of the  
461 lesson plan and every 12 months thereafter, or at any time the  
462 Department of Children and Family Services determines that the  
463 defendant has regained competency to proceed, the Department of  
464 Children and Family Services shall file a report with the court  
465 pursuant to the applicable Florida Rules of Criminal Procedure.

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

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

474 Section 10. Section 916.15, Florida Statutes, is amended to  
475 read:

476 916.15 Involuntary commitment of defendant adjudicated not  
477 guilty by reason of insanity.--

478 (1) The determination of whether a defendant is not guilty  
479 by reason of insanity shall be determined in accordance with Rule  
480 3.217, Florida Rules of Criminal Procedure.

481 (2) Except for a defendant who is serving a sentence in the  
482 custody of the Department of Corrections, a defendant who is  
483 acquitted of criminal charges because of a finding of not guilty  
484 by reason of insanity may be involuntarily committed pursuant to  
485 such finding if the defendant has a mental illness and, because  
486 of the illness, is manifestly dangerous to himself or herself or  
487 others.

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488           (3) Except for a defendant who is serving a sentence in the  
489 custody of the Department of Corrections, a ~~Every~~ defendant  
490 acquitted of criminal charges by reason of insanity and found to  
491 meet the criteria for involuntary commitment may be committed and  
492 treated in accordance with ~~the provisions of~~ this section and the  
493 applicable Florida Rules of Criminal Procedure. The department  
494 shall admit a defendant so adjudicated to an appropriate facility  
495 or program for treatment and shall retain and treat such  
496 defendant.

497           (a) Within ~~No later than~~ 6 months after the date of  
498 admission, prior to the end of any period of extended commitment,  
499 or at any time the administrator or designee ~~has~~ shall have  
500 determined that the defendant no longer meets the criteria for  
501 continued commitment placement, the administrator or designee  
502 shall file a report with the court pursuant to the applicable  
503 Florida Rules of Criminal Procedure.

504           (b) Within 15 days after the court receives notification  
505 that the defendant no longer meets the criteria for continued  
506 commitment placement, the defendant shall, pursuant to s.  
507 916.107(10), be transported back to jail for the purpose of  
508 holding a commitment hearing.

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

512           (4) A defendant who is serving a sentence in the custody of  
513 the Department of Corrections, who has been charged with a new  
514 felony, and who has been adjudicated not guilty by reason of  
515 insanity shall be retained in the physical custody of the  
516 Department of Corrections for the remainder of his or her

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517 sentence. Within 30 days before the defendant's anticipated  
518 release date, the Department of Children and Family Services  
519 shall evaluate the defendant and file a report with the court  
520 requesting that the defendant be returned to the court's  
521 jurisdiction to determine if the defendant continues to meet the  
522 criteria for continued commitment placement.

523 (5)~~(4)~~ In all proceedings under this section, both the  
524 defendant and the state shall have the right to a hearing before  
525 the committing court. Evidence at such hearing may be presented  
526 by the hospital administrator or the administrator's designee as  
527 well as by the state and the defendant. The defendant shall have  
528 the right to counsel at any such hearing. If ~~In the event that~~ a  
529 defendant is determined to be indigent pursuant to s. 27.52, the  
530 public defender shall represent the defendant. The parties shall  
531 have access to the defendant's records at the treating facilities  
532 and may interview or depose personnel who have had contact with  
533 the defendant at the treating facilities.

534 Section 11. Paragraphs (b) and (d) of subsection (1) of  
535 section 985.19, Florida Statutes, are amended to read:

536 985.19 Incompetency in juvenile delinquency cases.--

537 (1) If, at any time prior to or during a delinquency case,  
538 the court has reason to believe that the child named in the  
539 petition may be incompetent to proceed with the hearing, the  
540 court on its own motion may, or on the motion of the child's  
541 attorney or state attorney must, stay all proceedings and order  
542 an evaluation of the child's mental condition.

543 (b) All determinations of competency shall be made at a  
544 hearing, with findings of fact based on an evaluation of the  
545 child's mental condition made by not less than two nor more than

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546 three experts appointed by the court. The basis for the  
547 determination of incompetency must be specifically stated in the  
548 evaluation and shall be conducted in such a way as to ensure  
549 uniform application of the criteria enumerated in rules  
550 8.095(9)(d), Competence to Proceed; Scope of Examination and  
551 Report, subsections 8.095(9)(d)(1) through (4), Florida  
552 Administrative Code. ~~In addition, a recommendation as to whether~~  
553 ~~residential or nonresidential treatment or training is required~~  
554 ~~must be included in the evaluation.~~ Experts appointed by the  
555 court to determine the mental condition of a child shall be  
556 allowed reasonable fees for services rendered. State employees  
557 may be paid expenses pursuant to s. 112.061. The fees shall be  
558 taxed as costs in the case.

559 (d) Appointed experts shall have completed forensic  
560 evaluator training approved by the department within 5 years  
561 prior to conducting evaluations for the court, and each shall be  
562 a psychiatrist, licensed psychologist, or physician.

563 1.(d) For incompetency evaluations related to mental  
564 illness, the Department of Children and Family Services shall  
565 maintain and annually provide the courts with a list of available  
566 mental health professionals who have completed a training program  
567 approved by the Department of Children and Family Services to  
568 perform the evaluations. Beginning July 1, 2009, experts shall  
569 remain on the department's registry as long as they have  
570 completed or retaken the forensic evaluator training within the  
571 previous 5 years. Those who have not completed the required  
572 training within the previous 5 years shall be removed from the  
573 department's registry and may not conduct evaluations for the  
574 courts.

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575        2. Experts are responsible for maintaining documentation of  
576 completion of the required training and providing the department  
577 with current contact information during the 5-year effective date  
578 of the required training.

579        Section 12. The Department of Children and Family Services  
580 and the Agency for Health Care Administration, in consultation  
581 with the Florida Substance Abuse and Mental Health Corporation  
582 and the Criminal Justice, Mental Health, and Substance Abuse  
583 Technical Assistance Center, shall prepare a plan relating to the  
584 provision and management of mental health services for  
585 consideration by the Legislature.

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

587        (a) A review and evaluation of the structure of governance  
588 of mental health services and recommendations that will improve  
589 the coordination of services at the local and state level,  
590 maximize the use of resources, and inform and link target  
591 populations with available services.

592        (b) A review and evaluation of, and recommendations  
593 concerning, the development of methodologies to accurately  
594 estimate target populations for mental health services, the  
595 service needs of each target population, and the availability of  
596 services.

597        (c) Proposed guidelines for the development and  
598 implementation of community-based mental health programs and  
599 services that reduce the likelihood of future involvement with  
600 the criminal justice system.

601        (d) Proposed guidelines for the development and  
602 implementation of programs and services that facilitate the  
603 transition and successful reentry into the community by providing

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604 a continuum of mental health services to persons released from  
605 criminal justice or forensic facilities.

606 (e) Recommended performance measures and reporting  
607 requirements for state and local programs and services specified  
608 in paragraphs (c) and (d).

609 (f) Proposed guidelines and strategies for providing a  
610 continuum of care to persons receiving competency restoration  
611 services.

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

615 Section 13. The Office of Program Policy Analysis and  
616 Government Accountability shall conduct a study and make  
617 recommendations relating to mental health services by January  
618 2009. The study shall include a review of the following:

619 (1) Mental health courts in this state compared with  
620 similar courts in other states.

621 (2) Mental health funding in this state compared with  
622 mental health funding in other states.

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

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

627 Section 14. This act shall take effect July 1, 2008.