

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

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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 of Children and Family Services
69 with current information; requiring the Department of
70 Children and Family Services and the Agency for Health
71 Care Administration to prepare a mental health plan to be
72 submitted to the Legislature and the Governor; requiring a
73 study by the Office of Program Policy Analysis and
74 Governmental Accountability on mental health issues;
75 providing an effective date.
76

77 Be It Enacted by the Legislature of the State of Florida:
78

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

81 394.4572 Screening of mental health personnel.--

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

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88 and facilities who have direct contact with ~~unmarried~~ patients
89 ~~under the age of 18 years~~. For purposes of this chapter,
90 employment screening of mental health personnel shall also
91 include, but is not limited to, employment screening as provided
92 under chapter 435.

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

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

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

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

114 394.462 Transportation.--

115 (4) HIV EXPOSURE.--

116 (a) In any case in which a law enforcement officer;

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117 employee of an emergency medical transport service, private
118 transport company contracting with the county, or mobile crisis
119 response service; or other designated agent of the county,
120 department, or the court comes into contact with or is exposed to
121 the body fluids of a person being taken into custody for the
122 purpose of delivering him or her to a receiving or treatment
123 facility, hospital, community mental health center, or other
124 facility authorized to provide mental health evaluations or
125 services pursuant to this chapter, the law enforcement officer,
126 employee, or agent may seek a court order directing that the
127 person who is the source of the significant exposure undergo HIV
128 testing. A sworn statement by the law enforcement officer,
129 employee, or agent that a significant exposure has occurred
130 constitutes probable cause for the issuance of the order by the
131 court. The order shall direct the person to undergo HIV testing
132 within 48 hours after the issuance of the court order.

133 1. The testing shall be performed in accordance with s.
134 381.004.

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

138 3. The results of the test are not admissible in any
139 subsequent court proceeding involving the person being
140 transported.

141 (b) A law enforcement officer; employee of an emergency
142 medical transport service, private transport company contracting
143 with the county, or mobile crisis response service; or other
144 designated agent of the county, department, or the court who
145 comes into contact with or is exposed to the body fluids of a

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146 person being transported pursuant to this section and who
147 requests HIV testing may obtain such test from his or her
148 respective county health department at no cost.

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

151 394.67 Definitions.--As used in this part, the term:

152 (21) "Residential treatment center for children and
153 adolescents" means a 24-hour residential program, including a
154 therapeutic group home, which provides mental health services to
155 emotionally disturbed children or adolescents as defined in s.
156 394.492(5) or (6) and which is a private for-profit or not-for-
157 profit corporation licensed by the Agency for Health Care
158 Administration under contract with the department which offers a
159 variety of treatment modalities in a more restrictive setting.

160 Section 4. Section 394.674, Florida Statutes, is amended to
161 read:

162 394.674 ~~Clinical~~ Eligibility for publicly funded substance
163 abuse and mental health services; fee collection requirements.--

164 (1) To be eligible to receive substance abuse and mental
165 health services funded by the department, a person must be a
166 member of at least one of the department's priority populations
167 ~~target groups~~ approved by the Legislature, ~~pursuant to s.~~
168 ~~216.0166.~~ The priority populations include:

169 (a) For adult mental health services:

170 1. Adults who have severe and persistent mental illness, as
171 designated by the department using criteria which include
172 severity of diagnosis, duration of the mental illness, ability to
173 independently perform activities of daily living, and receipt of

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- 174 disability income for a psychiatric condition. Within this group
175 priority populations include:
- 176 a. Older adults in crisis.
 - 177 b. Older adults who are at risk of being placed in a more
178 restrictive environment because of their mental illness.
 - 179 c. Individuals deemed incompetent to proceed or not guilty
180 by reason of insanity under chapter 916.
 - 181 d. Other individuals with criminal justice involvement.
 - 182 e. Individuals who have co-occurring mental illness and
183 substance use disorders.
- 184 2. Adults experiencing an acute mental or emotional crisis
185 as defined in s. 394.67(17).
- 186 (b) For children's mental health services:
 - 187 1. Children who have a serious emotional disturbance.
 - 188 2. Children who have an emotional disturbance.
 - 189 3. Children who are at risk of emotional disturbance.
 - 190 (c) For substance abuse services:
 - 191 1. Adults who have substance use disorders and have a
192 history of intravenous drug use.
 - 193 2. Persons dually diagnosed as having co-occurring
194 substance abuse and mental health disorders.
 - 195 3. Parents putting children at risk due to a substance
196 abuse disorder.
 - 197 4. Persons who have a substance abuse disorder and have
198 been ordered by the court to receive treatment.
 - 199 5. Children at risk for initiating drug use.
 - 200 6. Children under state supervision.

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201 7. Children who have a substance abuse disorder but who are
202 not under the supervision of a court or in the custody of a state
203 agency.

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

206 (2) Crisis services, as defined in s. 394.67, must, within
207 the limitations of available state and local matching resources,
208 be available to each person who is eligible for services under
209 subsection (1), regardless of the person's ability to pay for
210 such services. A person who is experiencing a mental health
211 crisis and who does not meet the criteria for involuntary
212 examination under s. 394.463(1), or a person who is experiencing
213 a substance abuse crisis and who does not meet the involuntary
214 admission criteria in s. 397.675, must contribute to the cost of
215 his or her care and treatment pursuant to the sliding fee scale
216 developed under subsection (4), unless charging a fee is
217 contraindicated because of the crisis situation.

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

225 (4) The department shall adopt rules relating to client
226 ~~implement the clinical~~ eligibility, client enrollment, and fee
227 collection ~~requirements~~ for publicly funded substance abuse and
228 mental health services. The rules must require ~~that~~ each provider
229 under contract with the department which enrolls eligible persons

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

255 | (5) A person who meets the eligibility criteria in
256 | subsection (1) shall be served in accordance with the appropriate
257 | district substance abuse and mental health services plan
258 | specified in s. 394.75 and within available resources.

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259 (6) The department may adopt rules to administer this
260 section.

261 Section 5. Section 394.4996, Florida Statutes, is created
262 to read:

263 394.4996 Integrated adult mental health crisis
264 stabilization and addictions receiving facilities.--

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

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

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

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

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

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

286 (3) The department, in consultation with the agency, shall
287 adopt by rule standards that address eligibility criteria;

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288 clinical procedures; staffing requirements; operational,
289 administrative, and financing requirements; and the investigation
290 of complaints. Standards that are implemented specific to
291 substance abuse treatment services shall meet or exceed existing
292 standards for addiction receiving facilities.

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

295 553.80 Enforcement.--

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

304 (a) Construction regulations relating to correctional
305 facilities under the jurisdiction of the Department of
306 Corrections and the Department of Juvenile Justice are to be
307 enforced exclusively by those departments.

308 (b) Construction regulations relating to elevator equipment
309 under the jurisdiction of the Bureau of Elevators of the
310 Department of Business and Professional Regulation shall be
311 enforced exclusively by that department.

312 (c) Construction regulations relating to secure mental
313 health treatment facilities under the jurisdiction of the
314 Department of Children and Family Services shall be enforced
315 exclusively by that department.

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

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

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

337 (g)~~(f)~~ The Florida Building Code as it pertains to toll
338 collection facilities under the jurisdiction of the turnpike
339 enterprise of the Department of Transportation shall be enforced
340 exclusively by the turnpike enterprise.

341
342 The governing bodies of local governments may provide a schedule
343 of fees, as authorized by s. 125.56(2) or s. 166.222 and this
344 section, for the enforcement of ~~the provisions of~~ this part. Such

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345 fees shall be used solely for carrying out the local government's
346 responsibilities in enforcing the Florida Building Code. The
347 authority of state enforcing agencies to set fees ~~for enforcement~~
348 shall be derived from authority existing on July 1, 1998.
349 However, ~~nothing contained in this subsection~~ does not shall
350 ~~operate to~~ limit such agencies from adjusting their fee schedule
351 in conformance with existing authority.

352 Section 7. Section 916.111, Florida Statutes, is amended to
353 read:

354 916.111 Training of mental health experts.--The evaluation
355 of defendants for competency to proceed or for sanity at the time
356 of the commission of the offense shall be conducted in such a way
357 as to ensure uniform application of the criteria enumerated in
358 Rules 3.210 and 3.216, Florida Rules of Criminal Procedure.

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

363 (a) Beginning July 1, 2009, experts shall remain on the
364 registry if they have completed or retaken the required training
365 within the previous 5 years. Those who have not completed the
366 required training within the previous 5 years shall be removed
367 from the registry and may not conduct evaluations for the courts.

368 (b) A mental health professional who has completed the
369 training course within the previous 5 years is responsible for
370 maintaining documentation of completion of the required training
371 and providing the department with current contact information.

372 (2) The department shall develop, and may contract with
373 accredited institutions:

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

375 1.(a) A plan for training mental health professionals to
376 perform forensic evaluations and to standardize the criteria and
377 procedures to be used in these evaluations;

378 2.(b) Clinical protocols and procedures based upon the
379 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal
380 Procedure; and

381 3.(c) Training for mental health professionals in the
382 application of these protocols and procedures in performing
383 forensic evaluations and providing reports to the courts; and

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

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

392 916.115 Appointment of experts.--

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

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

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403 (b) Graduate students completing a practicum or internship,
404 psychological specialists or counselors, and postdoctoral fellows
405 at the state's mental health treatment facilities may assist in
406 the evaluation process as long as their reports are overseen and
407 signed by a supervising evaluator who has completed forensic
408 evaluator training within the previous 5 years.

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

413 Section 9. Section 916.13, Florida Statutes, is amended to
414 read:

415 916.13 Involuntary commitment of defendant adjudicated
416 incompetent.--

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

422 (a) The defendant has a mental illness and because of the
423 mental illness:

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

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

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

440 (c) There is a substantial probability that the mental
441 illness causing the defendant's incompetence will respond to
442 treatment and the defendant will regain competency to proceed in
443 the reasonably foreseeable future.

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

456 (b) A defendant who is serving a sentence in the custody of
457 the Department of Corrections, who is charged with a new felony
458 or is entitled to a mandatory appeal pursuant to Rule 3.851,
459 Florida Rules of Criminal Procedure, and who has been adjudicated

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460 incompetent to proceed due to mental illness shall be retained in
461 the physical custody of the Department of Corrections and the
462 department shall administer a lesson plan for competency
463 restoration training provided by the Department of Children and
464 Family Services. Within 6 months after the administration of the
465 lesson plan and every 12 months thereafter, or at any time the
466 Department of Children and Family Services determines that the
467 defendant has regained competency to proceed, the Department of
468 Children and Family Services shall file a report with the court
469 pursuant to the applicable Florida Rules of Criminal Procedure.

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

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

478 Section 10. Section 916.15, Florida Statutes, is amended to
479 read:

480 916.15 Involuntary commitment of defendant adjudicated not
481 guilty by reason of insanity.--

482 (1) The determination of whether a defendant is not guilty
483 by reason of insanity shall be determined in accordance with Rule
484 3.217, Florida Rules of Criminal Procedure.

485 (2) Except for a defendant who is serving a sentence in the
486 custody of the Department of Corrections, a defendant who is
487 acquitted of criminal charges because of a finding of not guilty
488 by reason of insanity may be involuntarily committed pursuant to

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489 such finding if the defendant has a mental illness and, because
490 of the illness, is manifestly dangerous to himself or herself or
491 others.

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

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

508 (b) Within 15 days after the court receives notification
509 that the defendant no longer meets the criteria for continued
510 commitment placement, the defendant shall, pursuant to s.
511 916.107(10), be transported back to jail for the purpose of
512 holding a commitment hearing.

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

516 (4) A defendant who is serving a sentence in the custody of
517 the Department of Corrections, who has been charged with a new

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518 felony, and who has been adjudicated not guilty by reason of
519 insanity shall be retained in the physical custody of the
520 Department of Corrections for the remainder of his or her
521 sentence. Within 30 days before the defendant's anticipated
522 release date, the Department of Children and Family Services
523 shall evaluate the defendant and file a report with the court
524 requesting that the defendant be returned to the court's
525 jurisdiction to determine if the defendant continues to meet the
526 criteria for continued commitment placement.

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

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

540 985.19 Incompetency in juvenile delinquency cases.--

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

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547 (b) All determinations of competency shall be made at a
548 hearing, with findings of fact based on an evaluation of the
549 child's mental condition made by not less than two nor more than
550 three experts appointed by the court. The basis for the
551 determination of incompetency must be specifically stated in the
552 evaluation and shall be conducted in compliance with uniform
553 procedures relating to competency to proceed and evaluation
554 criteria. ~~In addition, a recommendation as to whether residential~~
555 ~~or nonresidential treatment or training is required must be~~
556 ~~included in the evaluation.~~ Experts appointed by the court to
557 determine the mental condition of a child shall be allowed
558 reasonable fees for services rendered. State employees may be
559 paid expenses pursuant to s. 112.061. The fees shall be taxed as
560 costs in the case.

561 (d) Appointed experts shall have completed forensic
562 evaluator training approved by the Department of Children and
563 Family Services within 5 years before conducting evaluations for
564 the court, and each shall be a psychiatrist, licensed
565 psychologist, or physician.

566 1.(d) For incompetency evaluations related to mental
567 illness, the Department of Children and Family Services shall
568 maintain and annually provide the courts with a list of available
569 mental health professionals who have completed a training program
570 approved by the Department of Children and Family Services to
571 perform the evaluations. Beginning July 1, 2009, experts shall
572 remain on the list as long as they have completed or retaken the
573 forensic evaluator training within the previous 5 years. Those
574 who have not completed the required training within the previous
575 5 years shall be removed from the list and may not conduct

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576 evaluations for the courts.

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

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

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

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

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

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

603 (d) Proposed guidelines for the development and
604 implementation of programs and services that facilitate the

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605 transition and successful reentry into the community by providing
606 a continuum of mental health services to persons released from
607 criminal justice or forensic facilities.

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

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

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

617 Section 13. The Office of Program Policy Analysis and
618 Government Accountability shall conduct a study and make
619 recommendations relating to mental health services by January
620 2009. The study shall include a review of the following:

621 (1) Mental health courts in this state compared with
622 similar courts in other states.

623 (2) Mental health funding in this state compared with
624 mental health funding in other states.

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

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

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