

By the Committees on Health and Human Services Appropriations;  
Judiciary; Children, Families, and Elder Affairs; and Senator  
Storms

603-08333-08

20081150c3

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 or the Agency for Health Care Administration;

603-08333-08

20081150c3

30 amending s. 916.111, F.S.; requiring that a forensic  
31 evaluator training course be provided annually in order  
32 for mental health experts to be placed on the forensic  
33 evaluator registry; providing that mental health  
34 professionals that have taken the course within the last 5  
35 years remain on the registry; requiring mental health  
36 professionals on the registry to maintain training course  
37 documentation and provide the department with current  
38 information; amending s. 916.115, F.S.; allowing certain  
39 persons who are supervised by a person who has taken the  
40 forensic evaluator training course to assist in the  
41 forensic evaluation process; amending s. 916.13, F.S.;  
42 requiring defendants in the custody of the Department of  
43 Corrections who are adjudicated incompetent to remain in  
44 the custody of the Department of Corrections and receive  
45 treatment from the department; requiring the Department of  
46 Children and Family Services to determine whether the  
47 inmate has regained competency; providing timelines for  
48 competency hearings; amending s. 916.15, F.S.; providing a  
49 timeline for holding a commitment hearing for defendants  
50 who no longer meet the criteria for continued commitment  
51 by reason of insanity; providing an exception for  
52 defendants in the custody of the Department of  
53 Corrections; requiring defendants in the custody of the  
54 Department of Corrections who are charged with a new  
55 felony and found not guilty by reason of insanity to  
56 remain in the department's custody for the remainder of  
57 their sentence; requiring the Department of Children and  
58 Family Services to evaluate the inmate and file a report

603-08333-08

20081150c3

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

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

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

82 | 394.4572 Screening of mental health personnel.--

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

603-08333-08

20081150c3

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

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

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

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

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

115 394.462 Transportation.--

116 (4) HIV EXPOSURE.--

603-08333-08

20081150c3

117        (a) In any case in which a law enforcement officer;  
118 employee of an emergency medical transport service, private  
119 transport company contracting with the county, or mobile crisis  
120 response service; or other designated agent of the county,  
121 department, or the court comes into contact with or is exposed to  
122 body fluids, to which universal precautions apply as outlined in  
123 s. 381.004(2) (c), of a person being taken into custody for the  
124 purpose of delivering him or her to a receiving or treatment  
125 facility, hospital, community mental health center, or other  
126 facility authorized to provide mental health evaluations or  
127 services pursuant to this chapter, the law enforcement officer,  
128 employee, or agent may seek a court order directing that the  
129 person who is the source of the significant exposure undergo HIV  
130 testing. A sworn statement by the law enforcement officer,  
131 employee, or agent that a significant exposure has occurred  
132 constitutes probable cause for the issuance of the order by the  
133 court. The order shall direct the person to undergo HIV testing  
134 within 48 hours after the issuance of the court order.

135        1. The testing shall be performed in accordance with s.  
136 381.004.

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

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

143        (b) A law enforcement officer; employee of an emergency  
144 medical transport service, private transport company contracting  
145 with the county, or mobile crisis response service; or other

603-08333-08

20081150c3

146 designated agent of the county, department, or the court who  
147 comes into contact with or is exposed to body fluids, to which  
148 universal precautions apply as outlined in s. 381.004(2)(c), of a  
149 person being transported pursuant to this section and who  
150 requests HIV testing may obtain such test from his or her  
151 respective county health department at no cost.

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

154 394.67 Definitions.--As used in this part, the term:

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

163 Section 4. Section 394.674, Florida Statutes, is amended to  
164 read:

165 394.674 ~~Clinical~~ Eligibility for publicly funded substance  
166 abuse and mental health services; fee collection requirements.--

167 (1) To be eligible to receive substance abuse and mental  
168 health services funded by the department, a person must be a  
169 member of at least one of the department's priority populations  
170 ~~target groups~~ approved by the Legislature, ~~pursuant to s.~~  
171 ~~216.0166.~~ The priority populations include:

172 (a) For adult mental health services:

173 1. Adults who have severe and persistent mental illness, as  
174 designated by the department using criteria which include

603-08333-08

20081150c3

175 severity of diagnosis, duration of the mental illness, ability to  
176 independently perform activities of daily living, and receipt of  
177 disability income for a psychiatric condition. Within this group  
178 priority populations include:

179 a. Older adults in crisis.

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

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

184 d. Other individuals with criminal justice involvement.

185 e. Individuals who have co-occurring mental illness and  
186 substance use disorders.

187 2. Adults experiencing an acute mental or emotional crisis  
188 as defined in s. 394.67(17).

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

190 1. Children who have a serious emotional disturbance.

191 2. Children who have an emotional disturbance.

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

193 (c) For substance abuse services:

194 1. Adults who have substance use disorders and have a  
195 history of intravenous drug use.

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

198 3. Parents putting children at risk due to a substance  
199 abuse disorder.

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

202 5. Children at risk for initiating drug use.

203 6. Children under state supervision.

603-08333-08

20081150c3

204        7. Children who have a substance abuse disorder but who are  
205 not under the supervision of a court or in the custody of a state  
206 agency.

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

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

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

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



603-08333-08

20081150c3

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

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

603-08333-08

20081150c3

262       (6) The department may adopt rules to administer this  
263 section.

264       Section 5. Section 394.4996, Florida Statutes, is created  
265 to read:

266       394.4996 Integrated adult mental health crisis  
267 stabilization and addictions receiving facilities.--

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

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

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

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

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

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

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

603-08333-08

20081150c3

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

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

298 553.80 Enforcement.--

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

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

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

315 (c) Construction regulations relating to secure mental  
316 health treatment facilities under the jurisdiction of the  
317 Department of Children and Family Services and secure mental  
318 health treatment facilities licensed under chapter 395 by the  
319 Agency for Health Care Administration shall be enforced

603-08333-08

20081150c3

320 exclusively by that department and the agency.

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

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

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

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

346

347 The governing bodies of local governments may provide a schedule  
348 of fees, as authorized by s. 125.56(2) or s. 166.222 and this

603-08333-08

20081150c3

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

357 Section 7. Section 916.111, Florida Statutes, is amended to  
358 read:

359 916.111 Training of mental health experts.--The evaluation  
360 of defendants for competency to proceed or for sanity at the time  
361 of the commission of the offense shall be conducted in such a way  
362 as to ensure uniform application of the criteria enumerated in  
363 Rules 3.210 and 3.216, Florida Rules of Criminal Procedure.

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

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

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

603-08333-08

20081150c3

377       (2) The department shall develop, and may contract with  
378 accredited institutions:

379       (a) ~~(1)~~ To provide:

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

383       2. ~~(b)~~ Clinical protocols and procedures based upon the  
384 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal  
385 Procedure; and

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

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

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

397       916.115 Appointment of experts.--

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

404       (a) ~~To the extent possible, the~~ Appointed experts must  
405 ~~shall~~ have completed forensic evaluator training as provided in

603-08333-08

20081150c3

406 s. 916.111 ~~approved by the department,~~ and each shall be a  
407 psychiatrist, licensed psychologist, or physician.

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

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

418 Section 9. Section 916.13, Florida Statutes, is amended to  
419 read:

420 916.13 Involuntary commitment of defendant adjudicated  
421 incompetent.--

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

427 (a) The defendant has a mental illness and because of the  
428 mental illness:

429 1. The defendant is manifestly incapable of surviving alone  
430 or with the help of willing and responsible family or friends,  
431 including available alternative services, and, without treatment,  
432 the defendant is likely to suffer from neglect or refuse to care  
433 for herself or himself and such neglect or refusal poses a real

603-08333-08

20081150c3

434 and present threat of substantial harm to the defendant's well-  
435 being; or

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

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

445 (c) There is a substantial probability that the mental  
446 illness causing the defendant's incompetence will respond to  
447 treatment and the defendant will regain competency to proceed in  
448 the reasonably foreseeable future.

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

461 (b) A defendant who is serving a sentence in the custody of  
462 the Department of Corrections, who is charged with a new felony



603-08333-08

20081150c3

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

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

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

483 Section 10. Section 916.15, Florida Statutes, is amended to  
484 read:

485 916.15 Involuntary commitment of defendant adjudicated not  
486 guilty by reason of insanity.--

487 (1) The determination of whether a defendant is not guilty  
488 by reason of insanity shall be determined in accordance with Rule  
489 3.217, Florida Rules of Criminal Procedure.

490 (2) Except for a defendant who is serving a sentence in the  
491 custody of the Department of Corrections, a defendant who is

603-08333-08

20081150c3

492 acquitted of criminal charges because of a finding of not guilty  
493 by reason of insanity may be involuntarily committed pursuant to  
494 such finding if the defendant has a mental illness and, because  
495 of the illness, is manifestly dangerous to himself or herself or  
496 others.

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

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

513 (b) Within 15 days after the court receives notification  
514 that the defendant no longer meets the criteria for continued  
515 commitment placement, the defendant shall, pursuant to s.  
516 916.107(10), be transported back to jail for the purpose of  
517 holding a commitment hearing.

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

603-08333-08

20081150c3

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

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

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

545       985.19 Incompetency in juvenile delinquency cases.--

546       (1) If, at any time prior to or during a delinquency case,  
547 the court has reason to believe that the child named in the  
548 petition may be incompetent to proceed with the hearing, the  
549 court on its own motion may, or on the motion of the child's

603-08333-08

20081150c3

550 attorney or state attorney must, stay all proceedings and order  
551 an evaluation of the child's mental condition.

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

566 (d) Appointed experts shall have completed forensic  
567 evaluator training approved by the Department of Children and  
568 Family Services within 5 years before conducting evaluations for  
569 the court, and each shall be a psychiatrist, licensed  
570 psychologist, or physician.

571 1.(d) For incompetency evaluations related to mental  
572 illness, the Department of Children and Family Services shall  
573 maintain and annually provide the courts with a list of available  
574 mental health professionals who have completed a training program  
575 approved by the Department of Children and Family Services to  
576 perform the evaluations. Beginning July 1, 2009, experts shall  
577 remain on the list as long as they have completed or retaken the  
578 forensic evaluator training within the previous 5 years. Those

603-08333-08

20081150c3

579 who have not completed the required training within the previous  
580 5 years shall be removed from the list and may not conduct  
581 evaluations for the courts.

582 2. Experts are responsible for maintaining documentation of  
583 completion of the required training and providing the department  
584 with current contact information during the 5-year effective  
585 period of the required training.

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

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

594 (a) A review and evaluation of the structure of governance  
595 of mental health services and recommendations that will improve  
596 the coordination of services at the local and state level,  
597 maximize the use of resources, and inform and link target  
598 populations with available services.

599 (b) A review and evaluation of, and recommendations  
600 concerning, the development of methodologies to accurately  
601 estimate target populations for mental health services, the  
602 service needs of each target population, and the availability of  
603 services.

604 (c) Proposed guidelines for the development and  
605 implementation of community-based mental health programs and  
606 services that reduce the likelihood of future involvement with  
607 the criminal justice system.

603-08333-08

20081150c3

608       (d) Proposed guidelines for the development and  
609 implementation of programs and services that facilitate the  
610 transition and successful reentry into the community by providing  
611 a continuum of mental health services to persons released from  
612 criminal justice or forensic facilities.

613       (e) Recommended performance measures and reporting  
614 requirements for state and local programs and services specified  
615 in paragraphs (c) and (d).

616       (f) Proposed guidelines and strategies for providing a  
617 continuum of care to persons receiving competency restoration  
618 services.

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

622       Section 13. The Office of Program Policy Analysis and  
623 Government Accountability shall conduct a study and make  
624 recommendations relating to mental health services by January  
625 2009. The study shall include a review of the following:

626       (1) Mental health courts in this state compared with  
627 similar courts in other states.

628       (2) Mental health funding in this state compared with  
629 mental health funding in other states.

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

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

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