

By the Committee on Criminal Justice

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1 A bill to be entitled

2 An act relating to the Department of Corrections; amending
3 s. 27.51, F.S.; providing for the public defender to
4 represent an indigent person who is involuntarily placed
5 or treated in an inmate mental health treatment facility;
6 amending s. 120.57, F.S.; requiring that an administrative
7 law judge appoint a public defender to represent an inmate
8 in proceedings for continued placement in such a facility;
9 amending s. 921.187, F.S.; deleting certain provisions
10 limiting circumstances under which an offender may be
11 placed in community control; amending s. 940.061, F.S.;
12 specifying that the Department of Corrections meets its
13 statutory obligation to assist released offenders with
14 completing the application for the restoration of civil
15 rights by sending an electronic list to the Parole
16 Commission each month of those inmates and offenders who
17 were released from incarceration or terminated from
18 supervision during the preceding month; amending s.
19 943.16, F.S.; eliminating provisions requiring that a law
20 enforcement officer reimburse the employing agency for
21 wages and benefits paid by the employing agency if the
22 officer terminates employment before the end of a 2-year
23 commitment period; eliminating wages and benefits from the
24 costs that employing agencies may recover; eliminating the
25 definition of the term "academy training period"; amending
26 s. 944.1905, F.S.; authorizing the department to assign an
27 offender sentenced to death to a facility for youthful
28 offenders until the offender reaches a specified age;
29 deleting provisions requiring that certain offenders

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30 younger than 18 years of age be housed and provided
31 certain services separately from older offenders or placed
32 in a facility for youthful offenders; amending s. 944.293,
33 F.S.; specifying that the Department of Corrections meets
34 its statutory obligation to assist released offenders with
35 completing the application for the restoration of civil
36 rights by sending an electronic list to the Parole
37 Commission each month of those inmates and offenders who
38 were released from incarceration or terminated from
39 supervision during the preceding month; amending s.
40 944.47, F.S.; providing that a cellular telephone or other
41 portable communication device that is introduced inside
42 the secure perimeter of a state correctional institution
43 without prior authorization is contraband; prohibiting an
44 inmate or other person upon the grounds of the institution
45 from possessing such contraband without authorization;
46 providing a definition; providing criminal penalties;
47 amending s. 945.41, F.S.; eliminating a requirement that
48 the Department of Corrections contract with the Department
49 of Children and Family Services to provide certain mental
50 health services; authorizing the Department of Corrections
51 to contract with other entities or persons to provide
52 mental health services to inmates; amending s. 945.42,
53 F.S.; revising definitions and defining the term "crisis
54 stabilization care"; amending s. 945.43, F.S.; revising
55 the procedures for placing an inmate in a mental health
56 treatment facility; providing for the inmate to be
57 represented by an attorney; providing for representation
58 if the inmate is indigent; authorizing the court to waive

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59 | the presence of the inmate at the hearing on the inmate's
60 | placement; amending s. 945.44, F.S.; providing for the
61 | emergency placement of an inmate in a mental health
62 | treatment facility; amending s. 945.45, F.S.; revising the
63 | provisions governing the continued placement of an inmate
64 | in a mental health treatment facility; providing for an
65 | inmate who is not otherwise represented by an attorney to
66 | be represented by the public defender of the circuit in
67 | which the treatment facility is located; providing that
68 | the administrative law judge may waive the presence of the
69 | inmate at the hearing under certain conditions; amending
70 | s. 945.46, F.S.; authorizing the warden to initiate
71 | procedures for the involuntary examination of an inmate
72 | who has a mental illness and meets certain criteria;
73 | amending s. 945.47, F.S.; providing for the transfer of an
74 | inmate who is no longer in need of mental health
75 | treatment; deleting certain provisions governing
76 | involuntary placement; requiring that a summary of the
77 | inmate's treatment be provided to the Parole Commission
78 | and the Department of Children and Family Services upon
79 | request; amending s. 945.48, F.S.; revising the procedure
80 | for the involuntary mental health treatment of an inmate;
81 | providing for the warden of the institution containing the
82 | mental health treatment facility to petition the circuit
83 | court for an order authorizing involuntary treatment;
84 | providing requirements for the hearing on involuntary
85 | treatment; limiting the period that an order authorizing
86 | involuntary treatment is effective; providing a procedure
87 | for emergency treatment; amending s. 945.49, F.S.;

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88 deleting a provision requiring that training provided to
89 correctional officers employed by a mental health
90 treatment facility be in accordance with the requirements
91 of the Criminal Justice Standards and Training Commission;
92 amending s. 948.01, F.S.; deleting certain provisions
93 limiting circumstances under which an offender may be
94 placed in community control; amending s. 948.10, F.S.;
95 deleting a requirement that community control programs and
96 manuals be developed in consultation with the Florida
97 Conference of Circuit Court Judges and the State Courts
98 Administrator; eliminating provisions requiring the
99 Department of Corrections to commit a specified amount of
100 resources to the community control program; deleting
101 requirements for the department in developing and
102 implementing community control programs, resource
103 directories, and training programs; deleting a requirement
104 for the Florida Court Education Council and the State
105 Courts Administrator to coordinate certain resources for
106 judges pertaining to community control; eliminating
107 provisions governing review and notice by the department
108 of offenders ineligible for community control and
109 requiring the department to develop a caseload
110 equalization strategy; deleting certain reporting
111 requirements for the department; amending s. 958.04, F.S.;
112 authorizing the court to sentence a person as a youthful
113 offender if the offender is younger than 21 years of age
114 at the time sentence is imposed; requiring the Department
115 of Corrections to adopt by rule criteria to define
116 successful participation in the youthful offender program;

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117 amending s. 958.11, F.S.; removing the specific
118 designation of youthful offender facilities for housing
119 female offenders; revising requirements for the department
120 with respect to assigning or transferring youthful
121 offenders; removing references to the Assistant Secretary
122 for Youthful Offenders; amending s. 958.12, F.S.; removing
123 the requirement for a youthful offender to be visited by a
124 probation and parole officer before release; removing the
125 requirement for the department to develop community
126 partnerships with the Department of Labor and Employment
127 Security and the Department of Children and Family
128 Services; providing an effective date.

129
130 Be It Enacted by the Legislature of the State of Florida:

131
132 Section 1. Subsection (1) of section 27.51, Florida
133 Statutes, is amended to read:

134 27.51 Duties of public defender.--

135 (1) The public defender shall represent, without additional
136 compensation, any person determined to be indigent under s. 27.52
137 and:

138 (a) Under arrest for, or charged with, a felony;

139 (b) Under arrest for, or charged with:

140 1. A misdemeanor authorized for prosecution by the state
141 attorney;

142 2. A violation of chapter 316 punishable by imprisonment;

143 3. Criminal contempt; or

144 4. A violation of a special law or county or municipal
145 ordinance ancillary to a state charge, or if not ancillary to a

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146 state charge, only if the public defender contracts with the
147 county or municipality to provide representation pursuant to ss.
148 27.54 and 125.69.

149
150 The public defender shall not provide representation pursuant to
151 this paragraph if the court, prior to trial, files in the cause
152 an order of no imprisonment as provided in s. 27.512;

153 (c) Alleged to be a delinquent child pursuant to a petition
154 filed before a circuit court;

155 (d) Sought by petition filed in such court to be
156 involuntarily placed as a mentally ill person under part I of
157 chapter 394, involuntarily placed in an inmate mental health
158 treatment facility under chapter 945, involuntarily treated in an
159 inmate mental health treatment facility under chapter 945,
160 involuntarily committed as a sexually violent predator under part
161 V of chapter 394, or involuntarily admitted to residential
162 services as a person with developmental disabilities under
163 chapter 393. A public defender shall not represent any plaintiff
164 in a civil action brought under the Florida Rules of Civil
165 Procedure, the Federal Rules of Civil Procedure, or the federal
166 statutes, or represent a petitioner in a rule challenge under
167 chapter 120, unless specifically authorized by statute;

168 (e) Convicted and sentenced to death, for purposes of
169 handling an appeal to the Supreme Court; or

170 (f) Is appealing a matter in a case arising under
171 paragraphs (a)-(d).

172 Section 2. Paragraph (b) of subsection (1) of section
173 120.57, Florida Statutes, is amended to read:

174 120.57 Additional procedures for particular cases.--

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175 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING
176 DISPUTED ISSUES OF MATERIAL FACT.--

177 (b) All parties shall have an opportunity to respond, to
178 present evidence and argument on all issues involved, to conduct
179 cross-examination and submit rebuttal evidence, to submit
180 proposed findings of facts and orders, to file exceptions to the
181 presiding officer's recommended order, and to be represented by
182 counsel or other qualified representative. In proceedings for the
183 continued placement of inmates under s. 945.45, the
184 administrative law judge shall appoint the public defender of the
185 circuit in which the treatment facility is located to represent
186 the inmate, unless the inmate is otherwise represented by a
187 private attorney. When appropriate, the general public may be
188 given an opportunity to present oral or written communications.
189 If the agency proposes to consider such material, then all
190 parties shall be given an opportunity to cross-examine or
191 challenge or rebut the material.

192 Section 3. Subsections (2), (3), and (4) of section
193 921.187, Florida Statutes, are amended to read:

194 921.187 Disposition and sentencing; alternatives;
195 restitution.--

196 ~~(2) An offender may not be placed in community control if:~~

197 ~~(a) Convicted of or adjudication is withheld for a forcible~~
198 ~~felony as defined in s. 776.08; and~~

199 ~~(b) Previously convicted of or adjudication was withheld~~
200 ~~for a forcible felony as defined in s. 776.08.~~

201
202 ~~Nothing in this subsection prohibits placement of certain inmates~~
203 ~~on community control pursuant to s. 947.1747. For purposes of~~

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204 ~~this subsection, a forcible felony does not include manslaughter~~
205 ~~or burglary.~~

206 (2)~~(3)~~ In addition to any other penalty provided by law for
207 an offense enumerated in s. 775.0877(1)(a)-(n), if the offender
208 is convicted of criminal transmission of HIV pursuant to s.
209 775.0877, the court may sentence the offender to criminal
210 quarantine community control as described in s. 948.001.

211 (3)~~(4)~~ The court shall require an offender to make
212 restitution under s. 775.089, unless the court finds clear and
213 compelling reasons not to order such restitution. If the court
214 does not order restitution, or orders restitution of only a
215 portion of the damages, as provided in s. 775.089, the court
216 shall state the reasons on the record in detail. An order
217 requiring an offender to make restitution to a victim under s.
218 775.089 does not remove or diminish the requirement that the
219 court order payment to the Crimes Compensation Trust Fund under
220 chapter 960.

221 Section 4. Section 940.061, Florida Statutes, is amended to
222 read:

223 940.061 Informing persons about executive clemency and
224 restoration of civil rights.--The Department of Corrections shall
225 inform and educate inmates and offenders on community supervision
226 about the restoration of civil rights and assist eligible inmates
227 and offenders on community supervision with the completion of the
228 application for the restoration of civil rights. The department
229 may meet its obligation to assist inmates and offenders with
230 completing the application for the restoration of civil rights by
231 electronically providing to the Parole Commission each month a
232 list of inmates who were released from incarceration and

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233 offenders who were terminated from supervision during the
234 preceding month.

235 Section 5. Section 943.16, Florida Statutes, is amended to
236 read:

237 943.16 Payment of tuition or officer certification
238 examination fee by employing agency; reimbursement of tuition,
239 other course expenses, wages, and benefits.--

240 (1) An employing agency is authorized to pay any costs of
241 tuition of a trainee in attendance at an approved basic recruit
242 training program.

243 (2) ~~(a)~~ A trainee who attends such approved training program
244 at the expense of an employing agency must remain in the
245 employment or appointment of such employing agency for a period
246 of not less than 2 years after graduation from the basic recruit
247 training program. If employment or appointment is terminated on
248 the trainee's own initiative within 2 years, he or she shall
249 reimburse the employing agency for the full cost of his or her
250 tuition and, other course expenses, ~~and additional amounts as~~
251 ~~provided in paragraph (b).~~

252 ~~(b) In addition to reimbursement for the full cost of~~
253 ~~tuition and other course expenses, a trainee terminating~~
254 ~~employment as provided in paragraph (a) shall reimburse the~~
255 ~~employing agency for the trainee's wages and benefits paid by the~~
256 ~~employing agency during the academy training period according to~~
257 ~~the following schedule:~~

258 1. ~~For a trainee terminating employment within 6 months of~~
259 ~~graduation from the basic recruit training program, the full~~
260 ~~amount of wages and benefits paid during the academy training~~
261 ~~period.~~

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262 2. ~~For a trainee terminating employment within 6 months and~~
263 ~~1 day to 12 months of graduation from the basic recruit training~~
264 ~~program, an amount equal to three fourths of the full amount of~~
265 ~~wages and benefits paid during the academy training period.~~

266 3. ~~For a trainee terminating employment within 12 months~~
267 ~~and 1 day to 18 months of graduation from the basic recruit~~
268 ~~training program, an amount equal to one-half of the full amount~~
269 ~~of wages and benefits paid during the academy training period.~~

270 4. ~~For a trainee terminating employment within 18 months~~
271 ~~and 1 day to 24 months of graduation from the basic recruit~~
272 ~~training program, an amount equal to one-fourth of the full~~
273 ~~amount of wages and benefits paid during the academy training~~
274 ~~period.~~

275 (3) An employing agency is authorized to pay the required
276 fee for an applicant to take the officer certification
277 examination on one occasion.

278 (4) An employing agency may institute a civil action to
279 collect such cost of tuition and, other course expenses, ~~wages,~~
280 ~~and benefits~~ as provided in this section if it is not reimbursed,
281 provided that the employing agency gave written notification to
282 the trainee of the 2-year employment commitment during the
283 employment screening process. The trainee shall return signed
284 acknowledgment of receipt of such notification.

285 (5) For purposes of this section, "~~academy training period~~"
286 ~~means the period of time that a trainee is attending an approved~~
287 ~~basic recruit training program in a law enforcement or~~
288 ~~correctional officer academy class for purposes of obtaining~~
289 ~~certification pursuant to this chapter, until the date of~~

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290 ~~graduation from such class.~~ the term "other course expenses"
291 includes the cost of meals.

292 (6) This section does not apply to trainees who terminate
293 employment with the employing agency and resign their
294 certification upon termination in order to obtain employment for
295 which certification under this chapter is not required. Further,
296 this section does not apply to trainees attending auxiliary
297 officer training.

298 (7) Notwithstanding the provisions of this section, an
299 employing agency may waive a trainee's requirement of
300 reimbursement in part or in full when the trainee terminates
301 employment due to hardship or extenuating circumstances.

302 Section 6. Subsection (5) of section 944.1905, Florida
303 Statutes, is amended to read:

304 944.1905 Initial inmate classification; inmate
305 reclassification.--The Department of Corrections shall classify
306 inmates pursuant to an objective classification scheme. The
307 initial inmate classification questionnaire and the inmate
308 reclassification questionnaire must cover both aggravating and
309 mitigating factors.

310 (5) (a) Notwithstanding any other provision of this section,
311 the department shall assign to facilities housing youthful
312 offenders ~~specific correctional facilities~~ all inmates who are
313 less than 18 years of age and who are not eligible for assignment
314 ~~and have not been assigned~~ to a facility for youthful offenders,
315 with the exception of those who have received a sentence of
316 death. Such an inmate shall be assigned to a facility for
317 youthful offenders until the inmate is 18 years of age. At the
318 discretion of the department, an inmate may be housed in a

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319 facility for youthful offenders until the inmate is 21 years of
320 age. ~~Any such inmate who is less than 18 years of age shall be~~
321 ~~housed in a dormitory that is separate from inmates who are 18~~
322 ~~years of age or older. Furthermore, the department shall provide~~
323 ~~any food service, education, and recreation for such inmate~~
324 ~~separately from inmates who are 18 years of age or older.~~

325 ~~(b) Notwithstanding the requirements of s. 958.11, any~~
326 ~~inmate who is less than 18 years of age, who was 15 years of age~~
327 ~~or younger at the time of his or her offense, and who has no~~
328 ~~prior juvenile adjudication must be placed in a facility for~~
329 ~~youthful offenders until the inmate is 18 years of age. At the~~
330 ~~discretion of the department, such an inmate may be placed in a~~
331 ~~facility for youthful offenders until the inmate is 21 years of~~
332 ~~age.~~

333 (b)(e) Any inmate who is assigned to a facility under
334 paragraph (a) is subject to the provisions of s. 958.11 regarding
335 facility assignments, and ~~or paragraph (b)~~ shall be removed and
336 reassigned to the general inmate population if his or her
337 behavior threatens the safety of other inmates or correctional
338 staff.

339 Section 7. Section 944.293, Florida Statutes, is amended to
340 read:

341 944.293 Initiation of restoration of civil rights.--With
342 respect to those persons convicted of a felony, the following
343 procedure shall apply: Prior to the time an offender is
344 discharged from supervision, an authorized agent of the
345 department shall obtain from the Governor the necessary
346 application and other forms required for the restoration of civil
347 rights. The authorized agent shall assist the offender in

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348 completing these forms and shall ensure that the application and
349 all necessary material are forwarded to the Governor before the
350 offender is discharged from supervision. The department may meet
351 its obligation to assist offenders in completing the application
352 for the restoration of civil rights by electronically providing
353 to the Parole Commission each month a list of offenders who were
354 released from incarceration or terminated from supervision during
355 the preceding month.

356 Section 8. Section 944.47, Florida Statutes, is amended to
357 read:

358 944.47 Introduction, removal, or possession of certain
359 articles unlawful; penalty.--

360 (1) (a) Except through regular channels as authorized by the
361 officer in charge of the correctional institution, it is unlawful
362 to introduce into or upon the grounds of any state correctional
363 institution, or to take or attempt to take or send or attempt to
364 send therefrom, any of the following articles which are hereby
365 declared to be contraband for the purposes of this section, to
366 wit:

367 1. Any written or recorded communication or any currency or
368 coin given or transmitted, or intended to be given or
369 transmitted, to any inmate of any state correctional institution.

370 2. Any article of food or clothing given or transmitted, or
371 intended to be given or transmitted, to any inmate of any state
372 correctional institution.

373 3. Any intoxicating beverage or beverage which causes or
374 may cause an intoxicating effect.

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375 4. Any controlled substance as defined in s. 893.02(4) or
376 any prescription or nonprescription drug having a hypnotic,
377 stimulating, or depressing effect.

378 5. Any firearm or weapon of any kind or any explosive
379 substance.

380 6. Any cellular telephone or other portable communication
381 device intentionally and unlawfully introduced inside the secure
382 perimeter of any state correctional institution without prior
383 authorization or consent from the officer in charge of such
384 correctional institution. As used in this subparagraph, the term
385 "portable communication device" means any device carried, worn,
386 or stored which is designed or intended to receive or transmit
387 verbal or written messages, access or store data, or connect
388 electronically to the Internet or any other electronic device,
389 and which allows communications in any form. Such devices
390 include, but are not limited to, portable two-way pagers, hand-
391 held radios, cellular telephones, Blackberry-type devices,
392 personal digital assistants or PDA's, laptop computers, or any
393 components of these devices which are intended to be used to
394 assemble such devices. The term also includes any new technology
395 that is developed for similar purposes. Excluded from this
396 definition is any device having communication capabilities which
397 has been approved or issued by the department for investigative
398 or institutional security purposes or for conducting other state
399 business.

400 (b) It is unlawful to transmit or attempt to transmit to,
401 or cause or attempt to cause to be transmitted to or received by,
402 any inmate of any state correctional institution any article or
403 thing declared by this subsection to be contraband, at any place

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404 | which is outside the grounds of such institution, except through
405 | regular channels as authorized by the officer in charge of such
406 | correctional institution.

407 | (c) It is unlawful for any inmate of any state correctional
408 | institution or any person while upon the grounds of any state
409 | correctional institution to be in actual or constructive
410 | possession of any article or thing declared by this section to be
411 | contraband, except as authorized by the officer in charge of such
412 | correctional institution.

413 | (2) A person who violates any provision of this section as
414 | it pertains to an article of contraband described in subparagraph
415 | (1) (a) 1., ~~or~~ subparagraph (1) (a) 2., or subparagraph (1) (a) 6.
416 | commits ~~is guilty of~~ a felony of the third degree, punishable as
417 | provided in s. 775.082, s. 775.083, or s. 775.084. In all other
418 | cases, a violation of a provision of this section constitutes a
419 | felony of the second degree, punishable as provided in s.
420 | 775.082, s. 775.083, or s. 775.084.

421 | Section 9. Subsections (1) and (5) of section 945.41,
422 | Florida Statutes, are amended to read:

423 | 945.41 Legislative intent of ss. 945.40-945.49.--It is the
424 | intent of the Legislature that mentally ill inmates in the
425 | custody of the Department of Corrections receive evaluation and
426 | appropriate treatment for their mental illness through a
427 | continuum of services. It is further the intent of the
428 | Legislature that:

429 | (1) Inmates in the custody of the department who have
430 | mental illnesses that require hospitalization and intensive
431 | psychiatric inpatient treatment or care receive appropriate
432 | treatment or care in Department of Corrections mental health

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433 treatment facilities designated for that purpose. ~~The department~~
434 ~~shall contract with the Department of Children and Family~~
435 ~~Services for the provision of mental health services in any~~
436 ~~departmental mental health treatment facility.~~ The Department of
437 Corrections shall provide mental health services to inmates
438 committed to it and may contract with any entities, persons, or
439 agencies qualified to provide such services.

440 (5) The department may designate a mental health treatment
441 facility for adult, and youthful, and female offenders or may
442 contract with other appropriate entities, persons, or agencies
443 for such services.

444 Section 10. Section 945.42, Florida Statutes, is amended to
445 read:

446 945.42 Definitions; ss. 945.40-945.49.--As used in ss.
447 945.40-945.49, the following terms shall have the meanings
448 ascribed to them, unless the context shall clearly indicate
449 otherwise:

450 (1) "Court" means the circuit court.

451 (2) "Crisis stabilization care" means a level of care that
452 is less restrictive and intense than care provided in a mental
453 health treatment facility, that includes a broad range of
454 evaluation and treatment services provided within a highly
455 structured setting or locked residential setting, and that is
456 intended for inmates who are experiencing acute emotional
457 distress and who cannot be adequately evaluated and treated in a
458 transitional care unit or infirmary isolation management room.
459 Such treatment is also more intense than treatment provided in a
460 transitional care unit and is devoted principally toward rapid
461 stabilization of acute symptoms and conditions.

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462 (3)~~(2)~~ "Department" means the Department of Corrections.

463 (4)~~(3)~~ "Director" means the Director for Mental Health
464 Services of the Department of Corrections or his or her designee.

465 (5)~~(4)~~ "In immediate need of care and treatment" means that
466 an inmate is apparently mentally ill and is not able to be
467 appropriately cared for in the institution where he or she ~~the~~
468 ~~inmate~~ is confined and that, but for being isolated in a more
469 restrictive and secure housing environment, because of the
470 apparent mental illness:

471 (a)1. The inmate is demonstrating a refusal to care for
472 himself or herself and without immediate treatment intervention,
473 is likely to continue to refuse to care for himself or herself,
474 and such refusal ~~the alleged mental illness~~ poses an immediate,
475 real, and present threat of substantial harm to his or her ~~the~~
476 ~~inmate's~~ well-being; ~~or to the safety of others.~~

477 2. There is an immediate, real, and present threat that the
478 inmate will inflict serious bodily harm on himself or herself or
479 another person, as evidenced by recent behavior involving
480 causing, attempting, or threatening such harm;

481 (b)1. The inmate has refused voluntary placement for
482 treatment at a mental health treatment facility after sufficient
483 and conscientious explanation and disclosure of the purpose of
484 placement; or

485 2. The inmate is unable to determine for himself or herself
486 whether placement is necessary; and

487 (c) All available less restrictive treatment alternatives
488 that would offer an opportunity for improvement of the inmate's
489 condition have been clinically determined to be inappropriate.

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490 ~~(6)~~~~(5)~~ "In need of care and treatment" means that an inmate
491 has a mental illness for which inpatient services in a mental
492 health treatment facility are necessary and that, but for being
493 isolated in a more restrictive and secure housing environment,
494 because of the ~~which~~ mental illness:

495 (a)1. The inmate is demonstrating a refusal to care for
496 himself or herself, without treatment is likely to continue to
497 refuse to care for himself or herself, and such refusal poses a
498 real and present threat of substantial harm to his or her ~~the~~
499 ~~inmate's well-being; or to the safety of others.~~

500 2. There is a substantial likelihood that in the near
501 future the inmate will inflict serious bodily harm on himself or
502 herself or another person, as evidenced by recent behavior
503 causing, attempting, or threatening such harm;

504 (b)1. The inmate has refused voluntary placement for
505 treatment at a mental health treatment facility after sufficient
506 and conscientious explanation and disclosure of the purpose of
507 placement; or

508 2. The inmate is unable to determine for himself or herself
509 whether placement is necessary; and

510 (c) All available less restrictive treatment alternatives
511 that would offer an opportunity for improvement of the inmate's
512 condition have been clinically determined to be inappropriate.

513 ~~(7)~~~~(6)~~ "Inmate" means any person committed to the custody
514 of the Department of Corrections.

515 ~~(8)~~~~(7)~~ "Mental health treatment facility" means ~~the~~
516 ~~Corrections Mental Health Institution and any~~ extended treatment
517 or hospitalization-level unit within the corrections system which
518 ~~other institution that~~ the Assistant Secretary for Health

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519 Services of the department specifically designates by rule to
520 provide acute psychiatric care and which may include involuntary
521 treatment and therapeutic intervention ~~at the hospital level,~~ in
522 contrast to less intensive levels of care such as outpatient
523 mental health care, transitional mental health care, or crisis
524 stabilization care.

525 ~~(9)-(8)~~ "Mentally ill" means an impairment of the mental or
526 emotional processes, of the ability to exercise conscious control
527 of one's actions, or of the ability to perceive or understand
528 reality ~~or to understand~~, which impairment substantially
529 interferes with a person's ability to meet the ordinary demands
530 of living, regardless of etiology, except that, for the purposes
531 of transfer of an inmate to a mental health treatment facility,
532 the term does not include retardation or developmental disability
533 as defined in chapter 393, simple intoxication, or conditions
534 manifested only by antisocial behavior or substance abuse ~~drug~~
535 addiction. However, an individual who is mentally retarded or
536 developmentally disabled may also have a mental illness.

537 ~~(10)-(9)~~ "Psychiatrist" means a medical practitioner
538 licensed pursuant to chapter 458 or chapter 459 who has primarily
539 diagnosed and treated nervous and mental disorders for a period
540 of not less than 3 years inclusive of psychiatric residency.

541 ~~(11)-(10)~~ "Psychological professional" ~~"Psychologist"~~ means
542 a behavioral practitioner who has an approved doctoral degree in
543 psychology as defined in s. 490.003(3)(b) and is employed by the
544 department ~~that is primarily clinical in nature from a university~~
545 ~~or professional graduate school that is state-authorized or~~
546 ~~accredited by an accrediting agency approved by the United States~~
547 ~~Department of Education and who is professionally certified by~~

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548 ~~the appropriate professional psychology association~~ or who is
549 licensed as a psychologist pursuant to chapter 490.

550 (12)~~(11)~~ "Secretary" means the Secretary of Corrections.

551 (13)~~(12)~~ "Transitional mental health care" means a level of
552 care that is more intensive than outpatient care, but less
553 intensive than crisis stabilization care, and is characterized by
554 the provision of traditional mental health treatments such as
555 group and individual therapy, activity therapy, recreational
556 therapy, and psychotropic medications ~~chemotherapy~~, in the
557 context of a structured residential setting. Transitional mental
558 health care is indicated for a person with chronic or residual
559 symptomatology who does not require crisis stabilization care or
560 acute psychiatric care ~~at the hospital level~~, but whose
561 impairment ~~impairments~~ in functioning nevertheless renders ~~render~~
562 him or her incapable of adjusting satisfactorily within the
563 general inmate population, ~~even with the assistance of outpatient~~
564 ~~care~~.

565 (14)~~(13)~~ "Warden" means the warden of a state corrections
566 facility or his or her designee.

567 Section 11. Section 945.43, Florida Statutes, is amended to
568 read:

569 945.43 Admission of inmate to mental health treatment
570 facility.--

571 (1) CRITERIA.--An inmate may be admitted to a mental health
572 treatment facility if he or she is mentally ill and is in need of
573 care and treatment, as defined in s. 945.42(6).

574 (2) PROCEDURE FOR PLACEMENT IN ADMISSION TO A MENTAL HEALTH
575 TREATMENT FACILITY.--

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576 (a) An inmate may be admitted to a mental health treatment
577 facility after notice and hearing, upon the recommendation of the
578 warden of the facility where the inmate is confined ~~and of the~~
579 ~~director~~. The recommendation shall be entered on a petition
580 ~~certificate~~ and must be supported by the expert opinion of a
581 psychiatrist and the second opinion of a psychiatrist or
582 psychological professional ~~psychologist~~. The petition ~~certificate~~
583 shall be filed with the court in the county where the inmate is
584 located ~~and shall serve as a petition for a hearing regarding~~
585 ~~placement~~.

586 (b) A copy of the petition ~~certificate~~ shall also be filed
587 ~~with the department, and copies~~ shall be served on the inmate ~~and~~
588 ~~the inmate's representatives~~, accompanied by:

589 1. ~~A written notice, in plain and simple language, that the~~
590 ~~inmate or the inmate's representative may apply at any time for a~~
591 ~~hearing on the issue of the inmate's need for treatment if he or~~
592 ~~she has previously waived such a hearing.~~

593 2. ~~A petition for such hearing, which requires only the~~
594 ~~signature of the inmate or the inmate's representative for~~
595 ~~completion.~~

596 3. ~~A written notice that the petition may be filed with the~~
597 ~~court in the county in which the inmate is hospitalized at the~~
598 ~~time and stating the name and address of the judge of such court.~~

599 4. ~~a written notice that the inmate or the inmate's~~
600 ~~representative~~ may apply immediately to the court to have an
601 attorney appointed if the inmate cannot afford one.

602 (c) The petition for placement may be filed in the county
603 in which the inmate is located ~~being treated at any time within 6~~
604 ~~months of the date of the certificate~~. The hearing shall be held

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605 in the same county, and one of the inmate's physicians at the
606 facility where the inmate is located shall appear as a witness at
607 the hearing.

608 (d) The inmate may have an attorney represent him or her at
609 the hearing and, if the inmate is indigent, the court may appoint
610 the office of the public defender or private counsel pursuant to
611 s. 27.40(1) to represent the inmate at the hearing. An attorney
612 representing the inmate shall have access to the inmate and any
613 records, including medical or mental health records, which are
614 relevant to the representation of the inmate.

615 (e) If the court finds that the inmate is mentally ill and
616 in need of care and treatment, as defined in s. 945.42(6), the
617 court ~~it~~ shall order that he or she be placed in ~~admitted to~~ a
618 mental health treatment facility or, if the inmate is at a mental
619 health treatment facility, that he or she be retained there.
620 ~~However, the inmate may be immediately transferred to and~~
621 ~~admitted at a mental health treatment facility by executing a~~
622 ~~waiver of the hearing by express and informed consent, without~~
623 ~~awaiting the court order.~~ The court shall authorize the mental
624 health treatment facility to retain the inmate for up to 6
625 months. If, at the end of that time, continued placement
626 ~~treatment~~ is necessary, the warden shall apply to the Division of
627 Administrative Hearings in accordance with s. 945.45 ~~court~~ for an
628 order authorizing continued placement.

629 (3) PROCEDURE FOR HEARING ON PLACEMENT TRANSFER OF AN
630 INMATE IN A FOR MENTAL HEALTH TREATMENT FACILITY.--~~If the inmate~~
631 ~~does not waive a hearing or if the inmate or the inmate's~~
632 ~~representative files a petition for a hearing after having waived~~
633 ~~it,~~

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634 (a) The court shall serve notice on the warden of the
635 facility where the inmate is confined, ~~the director,~~ and the
636 allegedly mentally ill inmate. The notice must ~~shall~~ specify the
637 date, time, and place of the hearing; the basis for the
638 allegation of mental illness; and the names of the examining
639 experts. The hearing shall be held within 5 days, and the court
640 may appoint a general or special magistrate to preside. The court
641 may waive the presence of the inmate at the hearing if such
642 waiver is consistent with the best interests of the inmate and
643 the inmate's counsel does not object. The hearing may be as
644 informal as is consistent with orderly procedure. One of the
645 experts whose opinion supported the petition for placement
646 ~~recommendation~~ shall be present at the hearing for information
647 purposes.

648 (b) If, at the hearing, the court finds that the inmate is
649 mentally ill and in need of care and treatment, as defined in s.
650 945.42(6), the court ~~it~~ shall order that he or she be placed in
651 ~~transferred to~~ a mental health treatment facility ~~and provided~~
652 ~~appropriate treatment.~~ The court shall provide a copy of its
653 order authorizing placement transfer and all supporting
654 documentation relating to the inmate's condition to the warden of
655 the treatment facility. If the court finds that the inmate is not
656 mentally ill, it shall dismiss the petition for placement
657 ~~transfer.~~

658 (4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL
659 ALLOWED.--The warden of an institution in which a mental health
660 treatment facility is located may refuse to place ~~admit~~ any
661 inmate in that treatment facility who is not accompanied by

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662 adequate court orders and documentation, as required in ss.
663 945.40-945.49.

664 Section 12. Section 945.44, Florida Statutes, is amended to
665 read:

666 945.44 Emergency placement ~~admission~~ of inmate in a ~~to~~
667 mental health treatment facility.--

668 (1) CRITERIA.--An inmate may be placed in a mental health
669 treatment facility on an emergency basis if he or she is mentally
670 ill and in immediate need of care and treatment, as defined in s.
671 945.42 (5).

672 (2) PROCEDURE FOR EMERGENCY PLACEMENT ~~ADMISSION~~.--An inmate
673 who is mentally ill and in immediate need of care and treatment
674 that ~~which~~ cannot be provided at the institution where he or she
675 is confined may be placed in ~~admitted to~~ a mental health
676 treatment facility on an emergency basis. The inmate may be
677 placed ~~transferred~~ immediately in a mental health treatment ~~to~~
678 ~~the~~ facility and shall be accompanied by the recommendation of
679 the warden of the institution where the inmate is confined, which
680 recommendation must ~~shall~~ state the need for the emergency
681 placement ~~transfer~~ and ~~shall~~ include a written opinion of a
682 physician verifying the need for the emergency placement
683 ~~transfer~~. Upon the emergency placement ~~the admission~~ of the
684 inmate in ~~to~~ the facility, the inmate shall be evaluated; if he
685 or she is determined to be in need of treatment or care, the
686 warden shall initiate proceedings for placement of the inmate, as
687 described in s. 945.43(2).

688 Section 13. Section 945.45, Florida Statutes, is amended to
689 read:

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690 945.45 ~~Procedure for~~ Continued placement of inmates in a
691 mental health treatment facility.--

692 (1) CRITERIA.--An inmate may be retained in a mental health
693 treatment facility if he or she is mentally ill and continues to
694 be in need of care and treatment as defined in s. 945.42(6).

695 (2) ~~(1)~~ PROCEDURE FOR CONTINUED PLACEMENT OF AN INMATE IN A
696 MENTAL HEALTH TREATMENT FACILITY.--

697 (a) ~~If continued placement of an inmate is necessary,~~ The
698 warden shall, prior to the expiration of the period during which
699 the treatment facility is authorized to retain the inmate, file a
700 petition with the Division of Administrative Hearings for ~~request~~
701 an order authorizing continued placement. The petition must ~~This~~
702 ~~request shall~~ be accompanied by a statement from the inmate's
703 physician justifying the petition request and providing a brief
704 summary of the inmate's treatment during the time he or she has
705 been placed. In addition, the warden shall submit an
706 individualized plan for the inmate for whom he or she is
707 requesting continued placement. The inmate may remain in a mental
708 health treatment facility pending a hearing after the timely
709 filing of the petition.

710 (b) Notification of this request for retention shall be
711 mailed to the inmate, ~~and the inmate's representative~~ along with
712 a waiver-of-hearing form and the completed petition, requesting
713 the inmate's ~~only~~ a signature and a ~~waiver-of-hearing form~~. The
714 waiver-of-hearing form shall require express and informed consent
715 and shall state that the inmate is entitled to an administrative
716 ~~a~~ hearing under the law; that the inmate is entitled to be
717 represented by an attorney at the hearing and that, if the inmate
718 cannot afford an attorney, one will be appointed; and that, if it

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719 is shown at the hearing that the inmate does not meet the
720 criteria for continued placement, he or she will be transferred
721 out of the mental health treatment facility ~~to another facility~~
722 ~~of the department~~. If the inmate ~~or the inmate's representative~~
723 does not sign the petition, or if the inmate does not sign a
724 waiver within 15 days, the administrative law judge shall notice
725 a hearing with regard to the inmate involved in accordance with
726 ss. 120.569 and 120.57(1).

727 (c) Unless the inmate is otherwise represented by a private
728 attorney, the inmate must be represented at the hearing on the
729 petition for continued placement by the public defender of the
730 circuit in which the treatment facility is located.

731 (3) PROCEDURE FOR HEARING ON CONTINUED PLACEMENT OF AN
732 INMATE IN A MENTAL HEALTH TREATMENT FACILITY.--

733 (a) The hearing on a petition for the continued placement
734 of an inmate in a mental health treatment facility is an
735 administrative hearing and shall be conducted in accordance with
736 ss. 120.569 and 120.57(1), except that an order entered by the
737 administrative law judge is final and subject to judicial review
738 in accordance with s. 120.68. An administrative law judge shall
739 be assigned by the Division of Administrative Hearings to conduct
740 hearings for continued placement.

741 (b) The administrative law judge may waive the presence of
742 the inmate at the hearing if such waiver is consistent with the
743 best interests of the inmate and the inmate's counsel does not
744 object.

745 (c) ~~(2)~~ If, at a hearing pursuant to ss. 945.40-945.49, the
746 administrative law judge finds that the inmate no longer meets
747 the criteria for placement ~~treatment~~, he or she shall order that

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748 the inmate be transferred out of the mental health treatment
749 facility ~~to another facility of the department.~~

750 ~~(d)(3)~~ If the inmate waives the hearing or if the
751 administrative law judge finds that the inmate is in need of
752 continued placement ~~treatment~~, the administrative law judge shall
753 enter an order authorizing such continued placement ~~treatment~~ for
754 a period not to exceed 1 year. The same procedure shall be
755 repeated prior to the expiration of each additional 1-year period
756 that the inmate is retained in the mental health treatment
757 facility.

758 ~~(4) Hearings on requests for orders authorizing continued~~
759 ~~placement filed in accordance with this section shall be~~
760 ~~conducted in accordance with the provisions of ss. 120.569 and~~
761 ~~120.57(1), except that any order entered by the administrative~~
762 ~~law judge shall be final and subject to judicial review in~~
763 ~~accordance with s. 120.68.~~

764 Section 14. Section 945.46, Florida Statutes, is amended to
765 read:

766 945.46 Initiation of involuntary placement proceedings with
767 respect to a mentally ill inmate scheduled for release.--

768 (1) If an inmate who is receiving mental health treatment
769 in the department is scheduled for release through expiration of
770 sentence or any other means, but continues to be mentally ill and
771 in need of care and treatment, as defined in s. 945.42(6), the
772 warden is authorized to initiate procedures for involuntary
773 placement pursuant to ~~the provisions of s. 394.467~~, 60 days prior
774 to such release.

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775 (2) In addition, the warden may initiate procedures for
776 involuntary examination pursuant to s. 394.463 for any inmate who
777 has a mental illness and meets the criteria of s. 394.463(1).

778 Section 15. Section 945.47, Florida Statutes, is amended to
779 read:

780 945.47 Discharge of inmate from mental health treatment.--

781 (1) An inmate who has been transferred for the purpose of
782 mental health treatment shall be discharged from treatment by the
783 warden under the following conditions:

784 (a) If the inmate is no longer in need of care and
785 treatment, as defined in s. 945.42(6), he or she may be
786 transferred out of the mental health treatment facility and
787 provided with appropriate mental health services to another
788 institution in the department; or

789 ~~(b) If the inmate continues to be mentally ill, but is not~~
790 ~~in need of care and treatment as an inpatient, he or she may be~~
791 ~~transferred to another institution in the department and provided~~
792 ~~appropriate outpatient and aftercare services;~~

793 (b)(e) If the inmate's sentence expires during his or her
794 treatment, but he or she is no longer in need of care and
795 treatment as an inpatient, the inmate may be released with a
796 recommendation for outpatient treatment, pursuant to the
797 provisions of ss. 945.40-945.49. ~~or~~

798 ~~(d) If the inmate's sentence expires and he or she~~
799 ~~continues to be mentally ill and in need of care and treatment,~~
800 ~~the warden shall initiate proceedings for involuntary placement,~~
801 ~~pursuant to s. 394.467.~~

802 ~~(2) An inmate who is involuntarily placed pursuant to s.~~
803 ~~394.467 at the expiration of his or her sentence may be placed,~~

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804 ~~by order of the court, in a facility designated by the Department~~
805 ~~of Children and Family Services as a secure, nonforensic, civil~~
806 ~~facility. Such a placement shall be conditioned upon a finding by~~
807 ~~the court of clear and convincing evidence that the inmate is~~
808 ~~manifestly dangerous to himself or herself or others. The need~~
809 ~~for such placement shall be reviewed by facility staff every 90~~
810 ~~days. At any time that a patient is considered for transfer to a~~
811 ~~nonsecure, civil unit, the court which entered the order for~~
812 ~~involuntary placement shall be notified.~~

813 (2)~~(3)~~ At any time that an inmate who has received mental
814 health treatment while in the custody of the department becomes
815 eligible for release under supervision or upon end of sentence ~~on~~
816 ~~parole~~, a ~~complete~~ record of the inmate's mental health treatment
817 may ~~shall~~ be provided to the Parole Commission and to the
818 Department of Children and Family Services upon request. The
819 record shall include, at a minimum ~~least~~, a summary of the
820 inmate's diagnosis, length of stay in treatment, clinical
821 history, prognosis, prescribed medication, and treatment plan,
822 and recommendations for aftercare services. ~~In the event that the~~
823 ~~inmate is released on parole, the record shall be provided to the~~
824 ~~parole officer who shall assist the inmate in applying for~~
825 ~~services from a professional or an agency in the community. The~~
826 ~~application for treatment and continuation of treatment by the~~
827 ~~inmate may be made a condition of parole, as provided in s.~~
828 ~~947.19(1); and a failure to participate in prescribed treatment~~
829 ~~may be a basis for initiation of parole violation hearings.~~

830 Section 16. Section 945.48, Florida Statutes, is amended to
831 read:

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832 945.48 Rights of inmates inmate provided mental health
833 treatment; procedure for involuntary treatment.--

834 (1) RIGHT TO QUALITY TREATMENT.--An inmate in a mental
835 health treatment facility has the right to receive treatment that
836 ~~which~~ is suited to his or her needs and that ~~which~~ is provided in
837 a humane psychological environment. Such treatment shall be
838 administered skillfully, safely, and humanely with respect for
839 the inmate's dignity and personal integrity.

840 (2) RIGHT TO EXPRESS AND INFORMED CONSENT.--Any inmate
841 provided psychiatric treatment within the department shall be
842 asked to give his or her express and informed written consent for
843 such treatment. "Express and informed written consent" or
844 "consent" means consent voluntarily given in writing after a
845 conscientious and sufficient explanation and disclosure of the
846 purpose of the proposed treatment; the common side effects of the
847 treatment, if any; the expected duration of the treatment; and
848 the alternative treatment available. The explanation shall enable
849 the inmate to make a knowing and willful decision without any
850 element of fraud, deceit, or duress or any other form of
851 constraint or coercion.

852 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF
853 INMATES.--Involuntary mental health treatment of an inmate who
854 refuses treatment that is deemed to be necessary for the
855 appropriate care of the inmate and the safety of the inmate or
856 others may be provided at a mental health treatment facility. ~~an~~
857 ~~institution authorized to do so by the Assistant Secretary for~~
858 ~~Health Services under the following circumstances:~~

859 ~~(a) In an emergency situation in which there is immediate~~
860 ~~danger to the health and safety of the inmate or other inmates,~~

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861 ~~such treatment may be provided upon the written order of a~~
862 ~~physician for a period not to exceed 48 hours, excluding weekends~~
863 ~~and legal holidays. If, after the 48-hour period, the inmate has~~
864 ~~not given express and informed consent to the treatment initially~~
865 ~~refused, the warden shall, within 48 hours, excluding weekends~~
866 ~~and legal holidays, petition the circuit court serving the county~~
867 ~~in which the facility is located for an order authorizing the~~
868 ~~continued treatment of the inmate. In the interim, treatment may~~
869 ~~be continued upon the written order of a physician who has~~
870 ~~determined that the emergency situation continues to present a~~
871 ~~danger to the safety of the inmate or others. If an inmate must~~
872 ~~be isolated for mental health purposes, that decision must be~~
873 ~~reviewed within 72 hours by medical staff different from that~~
874 ~~making the original placement.~~

875 ~~(b) In a situation other than an emergency situation, The~~
876 ~~warden of the institution containing the mental health treatment~~
877 ~~facility shall petition the circuit court serving the county in~~
878 ~~which the mental health treatment facility is located for an~~
879 ~~order authorizing the treatment of the inmate. The inmate shall~~
880 ~~be provided with a copy of the petition along with the proposed~~
881 ~~treatment, the basis for the proposed treatment, the names of the~~
882 ~~examining experts, and the date, time, and location of the~~
883 ~~hearing. The inmate may have an attorney represent him or her at~~
884 ~~the hearing and, if the inmate is indigent, the court shall~~
885 ~~appoint the office of the public defender or private counsel~~
886 ~~pursuant to s. 27.40(1) to represent the inmate at the hearing.~~
887 An attorney representing the inmate shall have access to the
888 inmate and any records, including medical or mental health
889 records, which are relevant to the representation of the inmate.

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890 ~~The order shall allow such treatment for a period not to exceed~~
891 ~~90 days from the date of the order. Unless the court is notified~~
892 ~~in writing that the inmate has provided express and informed~~
893 ~~consent in writing, that the inmate has been transferred to~~
894 ~~another institution of the department, or that the inmate is no~~
895 ~~longer in need of treatment, the warden shall, prior to the~~
896 ~~expiration of the initial 90-day order, petition the court for an~~
897 ~~order authorizing the continuation of treatment for another 90-~~
898 ~~day period. This procedure shall be repeated until the inmate~~
899 ~~provides consent or is no longer in need of treatment. Treatment~~
900 ~~may be continued pending a hearing after the filing of any~~
901 ~~petition.~~

902 (4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF
903 AN INMATE.--

904 (a) The hearing on the petition for involuntary treatment
905 shall be held within 5 days after the petition is filed and the
906 court may appoint a general or special magistrate to preside. The
907 inmate may testify or not, as he or she chooses, may cross-
908 examine witnesses testifying on behalf of the facility, and may
909 present his or her own witnesses. However, the court may waive
910 the presence of the inmate at the hearing if such waiver is
911 consistent with the best interests of the inmate and the inmate's
912 counsel does not object. One of the inmate's physicians whose
913 opinion supported the petition shall appear as a witness at the
914 hearing.

915 (b)(e) At the hearing on the issue of whether the court
916 should authorize treatment for which an inmate has refused to
917 give express and informed consent, the court shall determine by
918 clear and convincing evidence whether the inmate is mentally ill

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919 as defined in this chapter; whether such treatment is essential
920 to the care of the inmate; and whether the treatment is
921 experimental or presents an unreasonable risk of serious,
922 hazardous, or irreversible side effects. In arriving at the
923 substitute judgment decision, the court must consider at least
924 the following:

- 925 1. The inmate's expressed preference regarding treatment;
- 926 2. The probability of adverse side effects;
- 927 3. The prognosis for the inmate without treatment; and
- 928 4. The prognosis for the inmate with treatment.

929

930 ~~The inmate and the inmate's representative shall be provided with~~
931 ~~a copy of the petition and the date, time, and location of the~~
932 ~~hearing. The inmate may have an attorney represent him or her at~~
933 ~~the hearing, and, if the inmate is indigent, the court shall~~
934 ~~appoint the office of the public defender to represent him or her~~
935 ~~at the hearing. The inmate may testify or not, as he or she~~
936 ~~chooses, may cross-examine witnesses testifying on behalf of the~~
937 ~~facility, and may present his or her own witnesses.~~

938 (c) An order authorizing involuntary treatment shall allow
939 such treatment for a period not to exceed 90 days following the
940 date of the order. Unless the court is notified in writing that
941 the inmate has provided express and informed consent in writing,
942 that the inmate has been transferred to another institution of
943 the department, or that the inmate is no longer in need of
944 treatment, the warden shall, prior to the expiration of the
945 initial 90-day order, petition the court for an order authorizing
946 the continuation of treatment for another 90-day period. This
947 procedure shall be repeated until the inmate provides express and

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948 informed consent or is no longer in need of treatment. Treatment
949 may be continued pending a hearing after the timely filing of any
950 petition.

951 (5) PROCEDURE FOR EMERGENCY TREATMENT.--In an emergency
952 situation in which there is immediate danger to the health and
953 safety of an inmate or other inmates, emergency treatment may be
954 provided at a mental health treatment facility upon the written
955 order of a physician for a period not to exceed 48 hours,
956 excluding weekends and legal holidays. If, after the 48-hour
957 period, the inmate has not given express and informed consent to
958 the treatment initially refused, the warden shall, within 48
959 hours, excluding weekends and legal holidays, petition the
960 circuit court, in accordance with the procedures described in
961 this section, for an order authorizing the continued treatment of
962 the inmate. In the interim, treatment may be continued upon the
963 written order of a physician who has determined that the
964 emergency situation continues to present a danger to the safety
965 of the inmate or others. If an inmate must be isolated for mental
966 health purposes, that decision must be reviewed within 72 hours
967 by a different psychological professional or a physician other
968 than the one making the original placement.

969 (6) ~~(d)~~ EMERGENCY TREATMENT.--In addition to the other above
970 provisions of this section for mental health treatment, when the
971 consent ~~permission~~ of the inmate cannot be obtained, the warden
972 of a mental health treatment facility, or his or her designated
973 representative, with the concurrence of the inmate's attending
974 physician, may authorize emergency surgical or nonpsychiatric
975 medical treatment if such treatment is deemed lifesaving or there
976 is a situation threatening serious bodily harm to the inmate.

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977 ~~(3) STATUS OF INMATE.--An inmate receiving mental health~~
978 ~~treatment shall be subject to the same standards applied to other~~
979 ~~inmates in the department, including, but not limited to,~~
980 ~~consideration for parole, release by reason of gain-time~~
981 ~~allowances as provided for in s. 944.291, and release by~~
982 ~~expiration of sentence.~~

983 Section 17. Section 945.49, Florida Statutes, is amended to
984 read:

985 945.49 Operation and administration.--

986 (1) ADMINISTRATION.--The department is authorized to
987 contract with the appropriate entities, agencies, persons, and
988 local governing bodies to provide mental health services pursuant
989 to ss. 945.40-945.49.

990 (2) RULES.--The department, in cooperation with the Mental
991 Health Program Office of the Department of Children and Family
992 Services, shall adopt rules necessary for administration of ss.
993 945.40-945.49 in accordance with chapter 120.

994 (3) ORIENTATION AND TRAINING.--Correctional officers
995 employed by a mental health treatment facility shall receive
996 specialized training above and beyond that required for basic
997 certification pursuant to chapter 943. ~~Such training shall be in~~
998 ~~accordance with requirements of the Criminal Justice Standards~~
999 ~~and Training Commission.~~

1000 (4) STATUS OF INMATE.--An inmate receiving mental health
1001 treatment shall be subject to the same standards applied to other
1002 inmates in the department, including, but not limited to,
1003 consideration for parole, release by reason of gain-time
1004 allowances as provided for in s. 944.291, and release by
1005 expiration of sentence. ~~ADMINISTRATIVE LAW JUDGES.--One or more~~

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1006 ~~administrative law judges shall be assigned by the Division of~~
1007 ~~Administrative Hearings to conduct hearings for continued~~
1008 ~~placement.~~

1009 Section 18. Paragraph (c) of subsection (3) of section
1010 948.01, Florida Statutes, is amended to read:

1011 948.01 When court may place defendant on probation or into
1012 community control.--

1013 (3) If, after considering the provisions of subsection (2)
1014 and the offender's prior record or the seriousness of the
1015 offense, it appears to the court in the case of a felony
1016 disposition that probation is an unsuitable dispositional
1017 alternative to imprisonment, the court may place the offender in
1018 a community control program as provided in s. 948.10. Or, in a
1019 case of prior disposition of a felony commitment, upon motion of
1020 the offender or the department or upon its own motion, the court
1021 may, within the period of its retained jurisdiction following
1022 commitment, suspend the further execution of the disposition and
1023 place the offender in a community control program upon such terms
1024 as the court may require. The court may consult with a local
1025 offender advisory council pursuant to s. 948.90 with respect to
1026 the placement of an offender into community control. Not later
1027 than 3 working days before the hearing on the motion, the
1028 department shall forward to the court all relevant material on
1029 the offender's progress while in custody. If this sentencing
1030 alternative to incarceration is utilized, the court shall:

1031 ~~(c) Require the department to provide notifications~~
1032 ~~pursuant to s. 948.10(7).~~

1033 Section 19. Section 948.10, Florida Statutes, is amended to
1034 read:

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1035 948.10 Community control programs.--

1036 (1) The Department of Corrections shall develop and

1037 administer a community control program. ~~Such community control~~

1038 ~~program and required manuals shall be developed in consultation~~

1039 ~~with the Florida Conference of Circuit Court Judges and the~~

1040 ~~office of the State Courts Administrator.~~ This complementary

1041 program shall be rigidly structured and designed to accommodate

1042 offenders who, in the absence of such a program, would have been

1043 incarcerated. The program shall focus on the provision of

1044 sanctions and consequences which are commensurate with the

1045 seriousness of the crime. The program shall offer the courts and

1046 the Parole Commission an alternative, community-based method to

1047 punish an offender in lieu of incarceration when the offender is

1048 a member of one of the following target groups:

1049 (a) Probation violators charged with technical violations

1050 or misdemeanor violations.

1051 (b) Parole violators charged with technical violations or

1052 misdemeanor violations.

1053 (c) Individuals found guilty of felonies, who, due to their

1054 criminal backgrounds or the seriousness of the offenses, would

1055 not be placed on regular probation.

1056 ~~(2) An offender may not be placed in community control if:~~

1057 ~~(a) Convicted of or adjudication withheld for a forcible~~

1058 ~~felony as defined in s. 776.08, and~~

1059 ~~(b) Previously convicted of or adjudication withheld for a~~

1060 ~~forcible felony as defined in s. 776.08.~~

1061

1062 ~~Nothing in this subsection prohibits placement of certain inmates~~

1063 ~~on community control pursuant to s. 947.1747. For the purposes of~~

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1064 ~~this subsection, a forcible felony does not include manslaughter~~
1065 ~~or burglary.~~

1066 ~~(2)(3) The department shall commit not less than 10 percent~~
1067 ~~of the parole and probation field staff and supporting resources~~
1068 ~~to the operation of the community control program. Caseloads~~
1069 ~~should be restricted to a maximum of 25 cases per officer in~~
1070 ~~order to ensure an adequate level of staffing. Community control~~
1071 ~~is an individualized program in which the offender is restricted~~
1072 ~~to noninstitutional quarters or restricted to his or her own~~
1073 ~~residence subject to an authorized level of limited freedom.~~

1074 ~~(4) The department shall develop and implement procedures~~
1075 ~~to diagnose offenders during the prison intake process in order~~
1076 ~~to recommend to the sentencing courts, during the period of~~
1077 ~~retained jurisdiction, suitable candidates for placement in a~~
1078 ~~program of community control.~~

1079 ~~(5) The Department of Corrections shall develop, or shall~~
1080 ~~contract for the development of, an implementation manual, a~~
1081 ~~resource directory, and training programs for implementing~~
1082 ~~community control programs.~~

1083 ~~(a)1. The community control implementation manual shall~~
1084 ~~include, but shall not be limited to, an explanation of the types~~
1085 ~~of offenders who should be placed in community control programs,~~
1086 ~~procedures for diagnosing offenders, objectives and goals of such~~
1087 ~~placements, examples of alternative placements based upon the~~
1088 ~~experience of other states, and instruction in developing an~~
1089 ~~individualized program for each offender.~~

1090 ~~2. An offender's individualized program shall include~~
1091 ~~diagnosis of treatment needs in the areas of education, substance~~
1092 ~~abuse, and mental health, as well as community sanction~~

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1093 ~~provisions, restitution and community service provisions,~~
1094 ~~rehabilitation objectives and programs, and a schedule for~~
1095 ~~periodic review and reevaluation of such individualized programs.~~
1096 ~~Individualized programs for offenders who committed controlled~~
1097 ~~substance violations shall include provision for the conduct of~~
1098 ~~random substance abuse testing intermittently throughout the term~~
1099 ~~of supervision, upon the direction of the correctional probation~~
1100 ~~officer as defined in s. 943.10(3).~~

1101 ~~(b) The community control resource directory shall include,~~
1102 ~~but shall not be limited to, for each circuit in the state, an~~
1103 ~~identification and description of community resources that are~~
1104 ~~available for the implementation of community control programs,~~
1105 ~~which resources include the following:~~

1106 ~~1. The name, address, phone, county location, capacity, and~~
1107 ~~cost.~~

1108 ~~2. Client eligibility and characteristics which prohibit~~
1109 ~~acceptance.~~

1110 ~~3. The objectives of the program.~~

1111 ~~4. The primary source of referrals.~~

1112 ~~5. The average length of stay.~~

1113 ~~6. The services offered.~~

1114 ~~(c) Training programs shall be provided for correctional~~
1115 ~~field staff, local offender advisory councils, and others~~
1116 ~~responsible for the implementation of community control programs.~~

1117 ~~(6) The Florida Court Education Council and the office of~~
1118 ~~the State Courts Administrator shall coordinate the development~~
1119 ~~and implementation of a reference manual, directory, and training~~
1120 ~~programs for judges in relation to community control disposition.~~

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1121 ~~(7) Upon written request, when an offender is placed on~~
1122 ~~community control, the department shall notify:~~

1123 ~~(a) The original arresting law enforcement agency.~~

1124 ~~(b) The sheriff or chief law enforcement officer of the~~
1125 ~~county in which the offender is to be placed.~~

1126 ~~(c) The chief officer of any local law enforcement agency~~
1127 ~~within whose jurisdiction the offender is to be placed.~~

1128 ~~(d) The victim of the offense, the victim's parent or~~
1129 ~~guardian if the victim is a minor, the lawful representative of~~
1130 ~~the victim or the victim's parent or guardian if the victim is a~~
1131 ~~minor, or the next of kin if the victim is a homicide victim.~~

1132
1133 ~~Such notification shall include the name and street address of~~
1134 ~~the offender, the length of supervision, and the nature of the~~
1135 ~~offense. Update notification must be provided with respect to~~
1136 ~~violation of the terms or conditions of the placement.~~

1137 ~~(8) If an offender is sentenced to community control by the~~
1138 ~~court and the offender is ineligible to be placed on community~~
1139 ~~control as provided in subsection (2), the department shall:~~

1140 ~~(a) Review and verify whether an ineligible offender was~~
1141 ~~placed on community control.~~

1142 ~~(b) Within 30 days after receipt of the order, notify the~~
1143 ~~sentencing judge, the state attorney, and the Attorney General~~
1144 ~~that the offender was ineligible for placement on community~~
1145 ~~control.~~

1146 ~~(c) Provide a quarterly report to the chief judge and the~~
1147 ~~state attorney of each circuit citing the number of ineligible~~
1148 ~~offenders placed on community control within that circuit.~~

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1149 ~~(d) Provide an annual report to the Governor, the President~~
1150 ~~of the Senate, the Speaker of the House of Representatives, and~~
1151 ~~the Chief Justice of the Supreme Court on the placement of~~
1152 ~~ineligible offenders on community control in order to assist in~~
1153 ~~preparing judicial education programs or for any other purpose.~~

1154 (3)~~(9)~~ Procedures governing violations of community control
1155 shall be the same as those described in s. 948.06 with respect to
1156 probation.

1157 (4)~~(10)~~ Upon completion of the sanctions imposed in the
1158 community control plan before the expiration of the term ordered
1159 by the court, the department may petition the court to discharge
1160 the offender from community control supervision or to return the
1161 offender to a program of regular probation supervision. In
1162 considering the petition, the court should recognize the limited
1163 staff resources committed to the community control program, the
1164 purpose of the program, and the offender's successful compliance
1165 with the conditions set forth in the order of the court.

1166 ~~(11) The Department of Corrections shall:~~

1167 ~~(a) Develop and maintain a weighted statewide caseload~~
1168 ~~equalization strategy designed to ensure that high-risk offenders~~
1169 ~~receive the highest level of supervision; and~~

1170 ~~(b) Develop and implement a supervision risk assessment~~
1171 ~~instrument for the community control population which is similar~~
1172 ~~to the probation risk assessment instrument established by the~~
1173 ~~National Institute of Justice.~~

1174 (5)~~(12)~~ In its annual report to the Governor, the President
1175 of the Senate, and the Speaker of the House of Representatives
1176 under s. 20.315(5), the department shall include a detailed
1177 analysis of the community control program and the department's

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1178 specific efforts to protect the public from offenders placed on
1179 community control. The analysis must include, but need not be
1180 limited to, specific information on the department's ability to
1181 meet minimum officer-to-offender contact standards, the number of
1182 crimes committed by offenders on community control, and the level
1183 of community supervision provided.

1184 Section 20. Subsections (1) and (2) of section 958.04,
1185 Florida Statutes, are amended to read:

1186 958.04 Judicial disposition of youthful offenders.--

1187 (1) The court may sentence as a youthful offender any
1188 person:

1189 (a) Who is at least 18 years of age or who has been
1190 transferred for prosecution to the criminal division of the
1191 circuit court pursuant to chapter 985;

1192 (b) Who is found guilty of or who has tendered, and the
1193 court has accepted, a plea of nolo contendere or guilty to a
1194 crime that ~~which~~ is, under the laws of this state, a felony if
1195 the offender is younger than 21 years of age at the time sentence
1196 is imposed ~~such crime was committed before the defendant's 21st~~
1197 ~~birthday~~; and

1198 (c) Who has not previously been classified as a youthful
1199 offender under the provisions of this act; however, a ~~no~~ person
1200 who has been found guilty of a capital or life felony may not be
1201 sentenced as a youthful offender under this act.

1202 (2) In lieu of other criminal penalties authorized by law
1203 and notwithstanding any imposition of consecutive sentences, the
1204 court shall dispose of the criminal case as follows:

1205 (a) The court may place a youthful offender under
1206 supervision on probation or in a community control program, with

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1207 or without an adjudication of guilt, under such conditions as the
1208 court may lawfully impose for a period of not more than 6 years.
1209 Such period of supervision may ~~shall~~ not exceed the maximum
1210 sentence for the offense for which the youthful offender was
1211 found guilty.

1212 (b) The court may impose a period of incarceration as a
1213 condition of probation or community control, which period of
1214 incarceration shall be served in ~~either~~ a county facility, a
1215 department probation and restitution center, or a community
1216 residential facility that ~~which~~ is owned and operated by any
1217 public or private entity providing such services. A ~~No~~ youthful
1218 offender may not be required to serve a period of incarceration
1219 in a community correctional center as defined in s. 944.026.
1220 Admission to a department facility or center shall be contingent
1221 upon the availability of bed space and shall take into account
1222 the purpose and function of such facility or center. Placement in
1223 such a facility or center may ~~shall~~ not exceed 364 days.

1224 (c) The court may impose a split sentence whereby the
1225 youthful offender is to be placed on probation or community
1226 control upon completion of any specified period of incarceration;
1227 however, if the incarceration period is to be served in a
1228 department facility other than a probation and restitution center
1229 or community residential facility, such period shall be for not
1230 less than 1 year or more than 4 years. The period of probation or
1231 community control shall commence immediately upon the release of
1232 the youthful offender from incarceration. The period of
1233 incarceration imposed or served and the period of probation or
1234 community control, when added together, may ~~shall~~ not exceed 6
1235 years.

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1236 (d) The court may commit the youthful offender to the
1237 custody of the department for a period of not more than 6 years,
1238 provided that any such commitment may ~~shall~~ not exceed the
1239 maximum sentence for the offense for which the youthful offender
1240 has been convicted. Successful participation in the youthful
1241 offender program by an offender who is sentenced as a youthful
1242 offender by the court pursuant to this section, or is classified
1243 as such by the department, may result in a recommendation to the
1244 court, by the department, for a modification or early termination
1245 of probation, community control, or the sentence at any time
1246 prior to the scheduled expiration of such term. The department
1247 shall adopt rules defining criteria for successful participation
1248 in the youthful offender program which shall include program
1249 participation, academic and vocational training, and satisfactory
1250 adjustment. When a modification of the sentence results in the
1251 reduction of a term of incarceration, the court may impose a term
1252 of probation or community control which, when added to the term
1253 of incarceration, may ~~shall~~ not exceed the original sentence
1254 imposed.

1255 Section 21. Section 958.11, Florida Statutes, is amended to
1256 read:

1257 958.11 Designation of institutions and programs for
1258 youthful offenders; assignment from youthful offender
1259 institutions and programs.--

1260 (1) The department shall by rule designate separate
1261 institutions and programs for youthful offenders and shall employ
1262 and utilize personnel specially qualified by training and
1263 experience to operate all such institutions and programs for
1264 youthful offenders. Youthful offenders who are at least 14 years

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1265 of age but who have not yet reached the age of 19 years at the
1266 time of reception shall be separated from youthful offenders who
1267 are 19 years of age or older, except that if the population of
1268 the facilities designated for 14-year-old to 18-year-old youthful
1269 offenders exceeds 100 percent of lawful capacity, the department
1270 may assign 18-year-old youthful offenders to the 19-24 age group
1271 facility.

1272 (2) Youthful offender institutions and programs shall
1273 contain only those youthful offenders sentenced as such by a
1274 court or classified as such by the department, pursuant to the
1275 requirements of subsections (4) and (6), except that under
1276 special circumstances select adult offenders may be assigned to
1277 youthful offender institutions. Female youthful offenders of all
1278 ages may continue to be housed together at those institutions
1279 designated by department rule ~~Florida Correctional Institution~~
1280 ~~and Broward Correctional Institution~~ until such time as
1281 institutions for a female youthful offenders are offender
1282 institution is established or adapted to allow for separation by
1283 age and to accommodate all custody classifications.

1284 (3) The department may assign a youthful offender to a
1285 facility in the state correctional system which is not designated
1286 for the care, custody, control, and supervision of youthful
1287 offenders or an age group only in the following circumstances:

1288 (a) If the youthful offender is convicted of a new crime
1289 which is a felony under the laws of this state.

1290 (b) If the youthful offender becomes such a serious
1291 management or disciplinary problem resulting from serious
1292 violations of the rules of the department that his or her

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1293 original assignment would be detrimental to the interests of the
1294 program and to other inmates committed thereto.

1295 (c) If the youthful offender needs medical treatment,
1296 health services, or other specialized treatment otherwise not
1297 available at the youthful offender facility.

1298 (d) If the department determines that the youthful offender
1299 should be transferred outside of the state correctional system,
1300 as provided by law, for services not provided by the department.

1301 (e) If bed space is not available in a designated community
1302 residential facility, the department may assign a youthful
1303 offender to a community residential facility, provided that the
1304 youthful offender is separated from other offenders insofar as is
1305 practical.

1306 (f) If the youthful offender was originally assigned to a
1307 facility designated for 14-year-old to 18-year-old youthful
1308 offenders, but subsequently reaches the age of 19 years, the
1309 department may retain the youthful offender in the facility if
1310 the department determines that it is in the best interest of the
1311 youthful offender and the department.

1312 (g) If the department determines that a youthful offender
1313 originally assigned to a facility designated for the 19-24 age
1314 group is mentally or physically vulnerable by such placement, the
1315 department may reassign a youthful offender to a facility
1316 designated for the 14-18 age group if the department determines
1317 that a reassignment is necessary to protect the safety of the
1318 youthful offender or the institution.

1319 (h) If the department determines that a youthful offender
1320 originally assigned to a facility designated for the 14-18 age
1321 group is disruptive, incorrigible, or uncontrollable, the

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1322 department may reassign a youthful offender to a facility
1323 designated for the 19-24 age group if the department determines
1324 that a reassignment would best serve the interests of the
1325 youthful offender and the department.

1326 (4) The department ~~Office of the Assistant Secretary for~~
1327 ~~Youthful Offenders~~ shall continuously screen all institutions,
1328 facilities, and programs for any inmate who meets the eligibility
1329 requirements for youthful offender designation specified in s.
1330 958.04(1)(a) and (c) whose age does not exceed 24 years and whose
1331 total length of sentence does not exceed 10 years, and the
1332 department may classify and assign as a youthful offender any
1333 inmate who meets the criteria of this subsection.

1334 (5) The department ~~Population Movement and Control~~
1335 ~~Coordinator~~ shall coordinate all youthful offender assignments or
1336 transfers and shall ~~consult with the Office of the Assistant~~
1337 ~~Secretary for Youthful Offenders. The Office of the Assistant~~
1338 ~~Secretary for Youthful Offenders shall~~ review and maintain access
1339 to full and complete documentation and substantiation of all such
1340 assignments or transfers of youthful offenders to or from
1341 facilities in the state correctional system which are not
1342 designated for their care, custody, and control, except
1343 assignments or transfers made pursuant to paragraph (3)(c).

1344 (6) The department may assign to a youthful offender
1345 facility any inmate, except a capital or life felon, whose age
1346 does not exceed 19 years but who does not otherwise meet the
1347 criteria of this section, if the department ~~Assistant Secretary~~
1348 ~~for Youthful Offenders~~ determines that such inmate's mental or
1349 physical vulnerability would substantially or materially
1350 jeopardize his or her safety in a nonyouthful offender facility.

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1351 Assignments made under this subsection shall be included in the
1352 department's annual report.

1353 Section 22. Section 958.12, Florida Statutes, is amended to
1354 read:

1355 958.12 Participation in certain activities required.--

1356 (1) A youthful offender shall be required to participate in
1357 work assignments, and in career, academic, counseling, and other
1358 rehabilitative programs in accordance with this section,
1359 including, but not limited to:

1360 (a) All youthful offenders may be required, as appropriate,
1361 to participate in:

- 1362 1. Reception and orientation.
- 1363 2. Evaluation, needs assessment, and classification.
- 1364 3. Educational programs.
- 1365 4. Career and job training.
- 1366 5. Life and socialization skills training, including
1367 anger/aggression control.
- 1368 6. Prerelease orientation and planning.
- 1369 7. Appropriate transition services.

1370 (b) In addition to the requirements in paragraph (a), the
1371 department shall make available:

- 1372 1. Religious services and counseling.
- 1373 2. Social services.
- 1374 3. Substance abuse treatment and counseling.
- 1375 4. Psychological and psychiatric services.
- 1376 5. Library services.
- 1377 6. Medical and dental health care.
- 1378 7. Athletic, recreational, and leisure time activities.
- 1379 8. Mail and visiting privileges.

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1380
1381 Income derived by a youthful offender from participation in such
1382 activities may be used, in part, to defray a portion of the costs
1383 of his or her incarceration or supervision; to satisfy
1384 preexisting obligations; to pay fines, counseling fees, or other
1385 costs lawfully imposed; or to pay restitution to the victim of
1386 the crime for which the youthful offender has been convicted in
1387 an amount determined by the sentencing court. Any such income not
1388 used for such reasons or not used as provided in s. 946.513 or s.
1389 958.09 shall be placed in a bank account for use by the youthful
1390 offender upon his or her release.

1391 (2) A comprehensive transition and postrelease plan shall
1392 be developed for the youthful offender by a team consisting of a
1393 transition assistance officer, a classification officer, an
1394 educational representative, a health services administrator, a
1395 probation and parole officer, and the youthful offender.

1396 ~~(3) A youthful offender shall be visited by a probation and~~
1397 ~~parole officer prior to the offender's release from incarceration~~
1398 ~~in order to assist in the youthful offender's transition.~~

1399 (3)~~(4)~~ Community partnerships shall be developed by the
1400 department to provide postrelease community resources. The
1401 department shall develop partnerships with entities that ~~which~~
1402 include, but are not limited to, state agencies ~~the Department of~~
1403 ~~Labor and Employment Security, the Department of Children and~~
1404 ~~Family Services~~, community health agencies, private agencies, and
1405 school systems.

1406 (4)~~(5)~~ If supervision of the youthful offender after
1407 release from incarceration is required, this ~~and~~ may be
1408 accomplished in a residential or nonresidential program or~~r~~

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1409 | intensive day treatment, or through supervision by a correctional
1410 | probation ~~and parole~~ officer.

1411 | Section 23. This act shall take effect October 1, 2008.