

By the Committees on Criminal Justice; Criminal Justice

591-04816-08

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1 A bill to be entitled

2 An act relating to the Department of Corrections; amending
3 s. 921.187, F.S.; deleting certain provisions limiting
4 circumstances under which an offender may be placed in
5 community control; amending s. 940.061, F.S.; specifying
6 that the Department of Corrections meets its statutory
7 obligation to assist released offenders with completing
8 the application for the restoration of civil rights by
9 sending an electronic list to the Parole Commission each
10 month of those inmates and offenders who were released
11 from incarceration or terminated from supervision during
12 the preceding month; amending s. 943.16, F.S.; eliminating
13 provisions requiring that a law enforcement officer
14 reimburse the employing agency for wages and benefits paid
15 by the employing agency if the officer terminates
16 employment before the end of a 2-year commitment period;
17 eliminating wages and benefits from the costs that
18 employing agencies may recover; eliminating the definition
19 of the term "academy training period"; amending s.
20 944.1905, F.S.; authorizing the department to assign an
21 offender sentenced to death to a facility for youthful
22 offenders until the offender reaches a specified age;
23 deleting provisions requiring that certain offenders
24 younger than 18 years of age be housed and provided
25 certain services separately from older offenders or placed
26 in a facility for youthful offenders; amending s. 944.293,
27 F.S.; specifying that the Department of Corrections meets
28 its statutory obligation to assist released offenders with
29 completing the application for the restoration of civil

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30 rights by sending an electronic list to the Parole
31 Commission each month of those inmates and offenders who
32 were released from incarceration or terminated from
33 supervision during the preceding month; amending s.
34 944.47, F.S.; providing that a cellular telephone or other
35 portable communication device that is introduced inside
36 the secure perimeter of a state correctional institution
37 without prior authorization is contraband; prohibiting an
38 inmate or other person upon the grounds of the institution
39 from possessing such contraband without authorization;
40 providing a definition; providing criminal penalties;
41 amending s. 945.41, F.S.; eliminating a requirement that
42 the Department of Corrections contract with the Department
43 of Children and Family Services to provide certain mental
44 health services; authorizing the Department of Corrections
45 to contract with other entities or persons to provide
46 mental health services to inmates; amending s. 945.42,
47 F.S.; revising definitions and defining the term "crisis
48 stabilization care"; amending s. 945.43, F.S.; revising
49 the procedures for placing an inmate in a mental health
50 treatment facility; authorizing the court to waive the
51 presence of the inmate at the hearing on the inmate's
52 placement; amending s. 945.44, F.S.; providing for the
53 emergency placement of an inmate in a mental health
54 treatment facility; amending s. 945.45, F.S.; revising the
55 provisions governing the continued placement of an inmate
56 in a mental health treatment facility; providing that the
57 administrative law judge may waive the presence of the
58 inmate at the hearing under certain conditions; amending

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59 | s. 945.46, F.S.; authorizing the warden to initiate
60 | procedures for the involuntary examination of an inmate
61 | who has a mental illness and meets certain criteria;
62 | amending s. 945.47, F.S.; providing for the transfer of an
63 | inmate who is no longer in need of mental health
64 | treatment; deleting certain provisions governing
65 | involuntary placement; requiring that a summary of the
66 | inmate's treatment be provided to the Parole Commission
67 | and the Department of Children and Family Services upon
68 | request; amending s. 945.48, F.S.; revising the procedure
69 | for the involuntary mental health treatment of an inmate;
70 | providing for the warden of the institution containing the
71 | mental health treatment facility to petition the circuit
72 | court for an order authorizing involuntary treatment;
73 | providing requirements for the hearing on involuntary
74 | treatment; limiting the period that an order authorizing
75 | involuntary treatment is effective; providing a procedure
76 | for emergency treatment; amending s. 945.49, F.S.;
77 | deleting a provision requiring that training provided to
78 | correctional officers employed by a mental health
79 | treatment facility be in accordance with the requirements
80 | of the Criminal Justice Standards and Training Commission;
81 | amending s. 948.01, F.S.; deleting certain provisions
82 | limiting circumstances under which an offender may be
83 | placed in community control; amending s. 948.10, F.S.;
84 | deleting a requirement that community control programs and
85 | manuals be developed in consultation with the Florida
86 | Conference of Circuit Court Judges and the State Courts
87 | Administrator; deleting requirements for the department in

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88 developing and implementing community control programs,
89 resource directories, and training programs; deleting a
90 requirement for the Florida Court Education Council and
91 the State Courts Administrator to coordinate certain
92 resources for judges pertaining to community control;
93 eliminating provisions governing review and notice by the
94 department of offenders ineligible for community control
95 and requiring the department to develop a caseload
96 equalization strategy; amending s. 958.04, F.S.;
97 authorizing the court to sentence a person as a youthful
98 offender if the offender is younger than 21 years of age
99 at the time sentence is imposed; requiring the Department
100 of Corrections to adopt by rule criteria to define
101 successful participation in the youthful offender program;
102 amending s. 958.11, F.S.; removing the specific
103 designation of youthful offender facilities for housing
104 female offenders; revising requirements for the department
105 with respect to assigning or transferring youthful
106 offenders; removing references to the Assistant Secretary
107 for Youthful Offenders; amending s. 958.12, F.S.; removing
108 the requirement for a youthful offender to be visited by a
109 probation and parole officer before release; removing the
110 requirement for the department to develop community
111 partnerships with the Department of Labor and Employment
112 Security and the Department of Children and Family
113 Services; providing an effective date.

114
115 Be It Enacted by the Legislature of the State of Florida:
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117 Section 1. Subsections (2), (3), and (4) of section
118 921.187, Florida Statutes, are amended to read:

119 921.187 Disposition and sentencing; alternatives;
120 restitution.--

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

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

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

126

127 ~~Nothing in this subsection prohibits placement of certain inmates~~
128 ~~on community control pursuant to s. 947.1747. For purposes of~~
129 ~~this subsection, a forcible felony does not include manslaughter~~
130 ~~or burglary.~~

131 (2)~~(3)~~ In addition to any other penalty provided by law for
132 an offense enumerated in s. 775.0877(1) (a)-(n), if the offender
133 is convicted of criminal transmission of HIV pursuant to s.
134 775.0877, the court may sentence the offender to criminal
135 quarantine community control as described in s. 948.001.

136 (3)~~(4)~~ The court shall require an offender to make
137 restitution under s. 775.089, unless the court finds clear and
138 compelling reasons not to order such restitution. If the court
139 does not order restitution, or orders restitution of only a
140 portion of the damages, as provided in s. 775.089, the court
141 shall state the reasons on the record in detail. An order
142 requiring an offender to make restitution to a victim under s.
143 775.089 does not remove or diminish the requirement that the
144 court order payment to the Crimes Compensation Trust Fund under
145 chapter 960.

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146 Section 2. Section 940.061, Florida Statutes, is amended to
147 read:

148 940.061 Informing persons about executive clemency and
149 restoration of civil rights.--The Department of Corrections shall
150 inform and educate inmates and offenders on community supervision
151 about the restoration of civil rights and assist eligible inmates
152 and offenders on community supervision with the completion of the
153 application for the restoration of civil rights. The department
154 may meet its obligation to assist inmates and offenders with
155 completing the application for the restoration of civil rights by
156 electronically providing to the Parole Commission each month a
157 list of inmates who were released from incarceration and
158 offenders who were terminated from supervision during the
159 preceding month.

160 Section 3. Section 943.16, Florida Statutes, is amended to
161 read:

162 943.16 Payment of tuition or officer certification
163 examination fee by employing agency; reimbursement of tuition,
164 other course expenses, wages, and benefits.--

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

168 (2)~~(a)~~ A trainee who attends such approved training program
169 at the expense of an employing agency must remain in the
170 employment or appointment of such employing agency for a period
171 of not less than 2 years after graduation from the basic recruit
172 training program. If employment or appointment is terminated on
173 the trainee's own initiative within 2 years, he or she shall
174 reimburse the employing agency for the full cost of his or her

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175 tuition and, other course expenses, ~~and additional amounts as~~
176 ~~provided in paragraph (b).~~

177 ~~(b) In addition to reimbursement for the full cost of~~
178 ~~tuition and other course expenses, a trainee terminating~~
179 ~~employment as provided in paragraph (a) shall reimburse the~~
180 ~~employing agency for the trainee's wages and benefits paid by the~~
181 ~~employing agency during the academy training period according to~~
182 ~~the following schedule:~~

183 ~~1. For a trainee terminating employment within 6 months of~~
184 ~~graduation from the basic recruit training program, the full~~
185 ~~amount of wages and benefits paid during the academy training~~
186 ~~period.~~

187 ~~2. For a trainee terminating employment within 6 months and~~
188 ~~1 day to 12 months of graduation from the basic recruit training~~
189 ~~program, an amount equal to three-fourths of the full amount of~~
190 ~~wages and benefits paid during the academy training period.~~

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

195 ~~4. For a trainee terminating employment within 18 months~~
196 ~~and 1 day to 24 months of graduation from the basic recruit~~
197 ~~training program, an amount equal to one-fourth of the full~~
198 ~~amount of wages and benefits paid during the academy training~~
199 ~~period.~~

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

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

210 (5) For purposes of this section, ~~"academy training period"~~
211 ~~means the period of time that a trainee is attending an approved~~
212 ~~basic recruit training program in a law enforcement or~~
213 ~~correctional officer academy class for purposes of obtaining~~
214 ~~certification pursuant to this chapter, until the date of~~
215 ~~graduation from such class.~~ the term "other course expenses"
216 includes the cost of meals.

217 (6) This section does not apply to trainees who terminate
218 employment with the employing agency and resign their
219 certification upon termination in order to obtain employment for
220 which certification under this chapter is not required. Further,
221 this section does not apply to trainees attending auxiliary
222 officer training.

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

227 Section 4. Subsection (5) of section 944.1905, Florida
228 Statutes, is amended to read:

229 944.1905 Initial inmate classification; inmate
230 reclassification.--The Department of Corrections shall classify
231 inmates pursuant to an objective classification scheme. The

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232 initial inmate classification questionnaire and the inmate
233 reclassification questionnaire must cover both aggravating and
234 mitigating factors.

235 (5) (a) Notwithstanding any other provision of this section,
236 the department shall assign to facilities housing youthful
237 offenders ~~specific correctional facilities~~ all inmates who are
238 less than 18 years of age and who are not eligible for assignment
239 ~~and have not been assigned~~ to a facility for youthful offenders,
240 with the exception of those who have received a sentence of
241 death. Such an inmate shall be assigned to a facility for
242 youthful offenders until the inmate is 18 years of age. At the
243 discretion of the department, an inmate may be housed in a
244 facility for youthful offenders until the inmate is 21 years of
245 age. Any such inmate who is less than 18 years of age shall be
246 ~~housed in a dormitory that is separate from inmates who are 18~~
247 ~~years of age or older. Furthermore, the department shall provide~~
248 ~~any food service, education, and recreation for such inmate~~
249 ~~separately from inmates who are 18 years of age or older.~~

250 (b) ~~Notwithstanding the requirements of s. 958.11, any~~
251 ~~inmate who is less than 18 years of age, who was 15 years of age~~
252 ~~or younger at the time of his or her offense, and who has no~~
253 ~~prior juvenile adjudication must be placed in a facility for~~
254 ~~youthful offenders until the inmate is 18 years of age. At the~~
255 ~~discretion of the department, such an inmate may be placed in a~~
256 ~~facility for youthful offenders until the inmate is 21 years of~~
257 ~~age.~~

258 (b) ~~(e)~~ Any inmate who is assigned to a facility under
259 paragraph (a) is subject to the provisions of s. 958.11 regarding
260 facility assignments, and ~~or paragraph (b)~~ shall be removed and

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261 | reassigned to the general inmate population if his or her
262 | behavior threatens the safety of other inmates or correctional
263 | staff.

264 | Section 5. Section 944.293, Florida Statutes, is amended to
265 | read:

266 | 944.293 Initiation of restoration of civil rights.--With
267 | respect to those persons convicted of a felony, the following
268 | procedure shall apply: Prior to the time an offender is
269 | discharged from supervision, an authorized agent of the
270 | department shall obtain from the Governor the necessary
271 | application and other forms required for the restoration of civil
272 | rights. The authorized agent shall assist the offender in
273 | completing these forms and shall ensure that the application and
274 | all necessary material are forwarded to the Governor before the
275 | offender is discharged from supervision. The department may meet
276 | its obligation to assist offenders in completing the application
277 | for the restoration of civil rights by electronically providing
278 | to the Parole Commission each month a list of offenders who were
279 | released from incarceration or terminated from supervision during
280 | the preceding month.

281 | Section 6. Section 944.47, Florida Statutes, is amended to
282 | read:

283 | 944.47 Introduction, removal, or possession of certain
284 | articles unlawful; penalty.--

285 | (1) (a) Except through regular channels as authorized by the
286 | officer in charge of the correctional institution, it is unlawful
287 | to introduce into or upon the grounds of any state correctional
288 | institution, or to take or attempt to take or send or attempt to
289 | send therefrom, any of the following articles which are hereby

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290 | declared to be contraband for the purposes of this section, to
291 | wit:

292 | 1. Any written or recorded communication or any currency or
293 | coin given or transmitted, or intended to be given or
294 | transmitted, to any inmate of any state correctional institution.

295 | 2. Any article of food or clothing given or transmitted, or
296 | intended to be given or transmitted, to any inmate of any state
297 | correctional institution.

298 | 3. Any intoxicating beverage or beverage which causes or
299 | may cause an intoxicating effect.

300 | 4. Any controlled substance as defined in s. 893.02(4) or
301 | any prescription or nonprescription drug having a hypnotic,
302 | stimulating, or depressing effect.

303 | 5. Any firearm or weapon of any kind or any explosive
304 | substance.

305 | 6. Any cellular telephone or other portable communication
306 | device intentionally and unlawfully introduced inside the secure
307 | perimeter of any state correctional institution without prior
308 | authorization or consent from the officer in charge of such
309 | correctional institution. As used in this subparagraph, the term
310 | "portable communication device" means any device carried, worn,
311 | or stored which is designed or intended to receive or transmit
312 | verbal or written messages, access or store data, or connect
313 | electronically to the Internet or any other electronic device,
314 | and which allows communications in any form. Such devices
315 | include, but are not limited to, portable two-way pagers, hand-
316 | held radios, cellular telephones, Blackberry-type devices,
317 | personal digital assistants or PDA's, laptop computers, or any
318 | components of these devices which are intended to be used to

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319 assemble such devices. The term also includes any new technology
320 that is developed for similar purposes. Excluded from this
321 definition is any device having communication capabilities which
322 has been approved or issued by the department for investigative
323 or institutional security purposes or for conducting other state
324 business.

325 (b) It is unlawful to transmit or attempt to transmit to,
326 or cause or attempt to cause to be transmitted to or received by,
327 any inmate of any state correctional institution any article or
328 thing declared by this subsection to be contraband, at any place
329 which is outside the grounds of such institution, except through
330 regular channels as authorized by the officer in charge of such
331 correctional institution.

332 (c) It is unlawful for any inmate of any state correctional
333 institution or any person while upon the grounds of any state
334 correctional institution to be in actual or constructive
335 possession of any article or thing declared by this section to be
336 contraband, except as authorized by the officer in charge of such
337 correctional institution.

338 (2) A person who violates any provision of this section as
339 it pertains to an article of contraband described in subparagraph
340 (1)(a)1., ~~or~~ subparagraph (1)(a)2., or subparagraph (1)(a)6.
341 commits ~~is guilty of~~ a felony of the third degree, punishable as
342 provided in s. 775.082, s. 775.083, or s. 775.084. In all other
343 cases, a violation of a provision of this section constitutes a
344 felony of the second degree, punishable as provided in s.
345 775.082, s. 775.083, or s. 775.084.

346 Section 7. Subsections (1) and (5) of section 945.41,
347 Florida Statutes, are amended to read:

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348 945.41 Legislative intent of ss. 945.40-945.49.--It is the
349 intent of the Legislature that mentally ill inmates in the
350 custody of the Department of Corrections receive evaluation and
351 appropriate treatment for their mental illness through a
352 continuum of services. It is further the intent of the
353 Legislature that:

354 (1) Inmates in the custody of the department who have
355 mental illnesses that require hospitalization and intensive
356 psychiatric inpatient treatment or care receive appropriate
357 treatment or care in Department of Corrections mental health
358 treatment facilities designated for that purpose. ~~The department~~
359 ~~shall contract with the Department of Children and Family~~
360 ~~Services for the provision of mental health services in any~~
361 ~~departmental mental health treatment facility.~~ The Department of
362 Corrections shall provide mental health services to inmates
363 committed to it and may contract with any entities, persons, or
364 agencies qualified to provide such services.

365 (5) The department may designate a mental health treatment
366 facility for adult, ~~and~~ youthful, and female offenders or may
367 contract with other appropriate entities, persons, or agencies
368 for such services.

369 Section 8. Section 945.42, Florida Statutes, is amended to
370 read:

371 945.42 Definitions; ss. 945.40-945.49.--As used in ss.
372 945.40-945.49, the following terms shall have the meanings
373 ascribed to them, unless the context shall clearly indicate
374 otherwise:

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

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376 (2) "Crisis stabilization care" means a level of care that
377 is less restrictive and intense than care provided in a mental
378 health treatment facility, that includes a broad range of
379 evaluation and treatment services provided within a highly
380 structured setting or locked residential setting, and that is
381 intended for inmates who are experiencing acute emotional
382 distress and who cannot be adequately evaluated and treated in a
383 transitional care unit or infirmary isolation management room.
384 Such treatment is also more intense than treatment provided in a
385 transitional care unit and is devoted principally toward rapid
386 stabilization of acute symptoms and conditions.

387 (3)~~(2)~~ "Department" means the Department of Corrections.

388 (4)~~(3)~~ "Director" means the Director for Mental Health
389 Services of the Department of Corrections or his or her designee.

390 (5)~~(4)~~ "In immediate need of care and treatment" means that
391 an inmate is apparently mentally ill and is not able to be
392 appropriately cared for in the institution where he or she ~~the~~
393 ~~inmate~~ is confined and that, but for being isolated in a more
394 restrictive and secure housing environment, because of the
395 apparent mental illness:

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

402 2. There is an immediate, real, and present threat that the
403 inmate will inflict serious bodily harm on himself or herself or

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404 another person, as evidenced by recent behavior involving
405 causing, attempting, or threatening such harm;

406 (b)1. The inmate has refused voluntary placement for
407 treatment at a mental health treatment facility after sufficient
408 and conscientious explanation and disclosure of the purpose of
409 placement; or

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

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

415 (6) ~~(5)~~ "In need of care and treatment" means that an inmate
416 has a mental illness for which inpatient services in a mental
417 health treatment facility are necessary and that, but for being
418 isolated in a more restrictive and secure housing environment,
419 because of the ~~which~~ mental illness:

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

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

429 (b)1. The inmate has refused voluntary placement for
430 treatment at a mental health treatment facility after sufficient
431 and conscientious explanation and disclosure of the purpose of
432 placement; or

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

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

438 (7)(6) "Inmate" means any person committed to the custody
439 of the Department of Corrections.

440 (8)(7) "Mental health treatment facility" means ~~the~~
441 ~~Corrections Mental Health Institution and any~~ extended treatment
442 or hospitalization-level unit within the corrections system which
443 ~~other institution that~~ the Assistant Secretary for Health
444 Services of the department specifically designates by rule to
445 provide acute psychiatric care and which may include involuntary
446 treatment and therapeutic intervention at the hospital level, in
447 contrast to less intensive levels of care such as outpatient
448 mental health care, transitional mental health care, or crisis
449 stabilization care.

450 (9)(8) "Mentally ill" means an impairment of the mental or
451 emotional processes, of the ability to exercise conscious control
452 of one's actions, or of the ability to perceive or understand
453 reality or to understand, which impairment substantially
454 interferes with a person's ability to meet the ordinary demands
455 of living, regardless of etiology, except that, for the purposes
456 of transfer of an inmate to a mental health treatment facility,
457 the term does not include retardation or developmental disability
458 as defined in chapter 393, simple intoxication, or conditions
459 manifested only by antisocial behavior or substance abuse drug
460 addiction. However, an individual who is mentally retarded or
461 developmentally disabled may also have a mental illness.

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462 ~~(10)~~(9) "Psychiatrist" means a medical practitioner
463 licensed pursuant to chapter 458 or chapter 459 who has primarily
464 diagnosed and treated nervous and mental disorders for a period
465 of not less than 3 years inclusive of psychiatric residency.

466 ~~(11)~~(10) "Psychological professional" "~~Psychologist~~" means
467 a behavioral practitioner who has an approved doctoral degree in
468 psychology as defined in s. 490.003(3)(b) and is employed by the
469 department that is primarily clinical in nature from a university
470 or professional graduate school that is state-authorized or
471 accredited by an accrediting agency approved by the United States
472 Department of Education and who is professionally certified by
473 the appropriate professional psychology association or who is
474 licensed as a psychologist pursuant to chapter 490.

475 ~~(12)~~(11) "Secretary" means the Secretary of Corrections.

476 ~~(13)~~(12) "Transitional mental health care" means a level of
477 care that is more intensive than outpatient care, but less
478 intensive than crisis stabilization care, and is characterized by
479 the provision of traditional mental health treatments such as
480 group and individual therapy, activity therapy, recreational
481 therapy, and psychotropic medications ~~chemotherapy~~, in the
482 context of a structured residential setting. Transitional mental
483 health care is indicated for a person with chronic or residual
484 symptomatology who does not require crisis stabilization care or
485 acute psychiatric care ~~at the hospital level~~, but whose
486 impairment ~~impairments~~ in functioning nevertheless renders ~~render~~
487 him or her incapable of adjusting satisfactorily within the
488 general inmate population, ~~even with the assistance of outpatient~~
489 care.

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490 ~~(14)~~~~(13)~~ "Warden" means the warden of a state corrections
491 facility or his or her designee.

492 Section 9. Section 945.43, Florida Statutes, is amended to
493 read:

494 945.43 Admission of inmate to mental health treatment
495 facility.--

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

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

501 (a) An inmate may be admitted to a mental health treatment
502 facility after notice and hearing, upon the recommendation of the
503 warden of the facility where the inmate is confined ~~and of the~~
504 ~~director~~. The recommendation shall be entered on a petition
505 ~~certificate~~ and must be supported by the expert opinion of a
506 psychiatrist and the second opinion of a psychiatrist or
507 psychological professional ~~psychologist~~. The petition ~~certificate~~
508 shall be filed with the court in the county where the inmate is
509 located ~~and shall serve as a petition for a hearing regarding~~
510 ~~placement~~.

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

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

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518 ~~2. A petition for such hearing, which requires only the~~
519 ~~signature of the inmate or the inmate's representative for~~
520 ~~completion.~~

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

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

527 (c) The petition for placement may be filed in the county
528 in which the inmate is located ~~being treated at any time within 6~~
529 ~~months of the date of the certificate.~~ The hearing shall be held
530 in the same county, and one of the inmate's physicians at the
531 facility where the inmate is located shall appear as a witness at
532 the hearing.

533 (d) An attorney representing the inmate shall have access
534 to the inmate and any records, including medical or mental health
535 records, which are relevant to the representation of the inmate.

536 (e) If the court finds that the inmate is mentally ill and
537 in need of care and treatment, as defined in s. 945.42(6), the
538 court ~~it~~ shall order that he or she be placed in ~~admitted to~~ a
539 mental health treatment facility or, if the inmate is at a mental
540 health treatment facility, that he or she be retained there.
541 ~~However, the inmate may be immediately transferred to and~~
542 ~~admitted at a mental health treatment facility by executing a~~
543 ~~waiver of the hearing by express and informed consent, without~~
544 ~~awaiting the court order.~~ The court shall authorize the mental
545 health treatment facility to retain the inmate for up to 6
546 months. If, at the end of that time, continued placement

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547 ~~treatment~~ is necessary, the warden shall apply to the Division of
548 Administrative Hearings in accordance with s. 945.45 ~~court~~ for an
549 order authorizing continued placement.

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

555 (a) The court shall serve notice on the warden of the
556 facility where the inmate is confined, ~~the director,~~ and the
557 allegedly mentally ill inmate. The notice must ~~shall~~ specify the
558 date, time, and place of the hearing; the basis for the
559 allegation of mental illness; and the names of the examining
560 experts. The hearing shall be held within 5 days, and the court
561 may appoint a general or special magistrate to preside. The court
562 may waive the presence of the inmate at the hearing if such
563 waiver is consistent with the best interests of the inmate and
564 the inmate's counsel does not object. The hearing may be as
565 informal as is consistent with orderly procedure. One of the
566 experts whose opinion supported the petition for placement
567 ~~recommendation~~ shall be present at the hearing for information
568 purposes.

569 (b) If, at the hearing, the court finds that the inmate is
570 mentally ill and in need of care and treatment, as defined in s.
571 945.42(6), the court ~~it~~ shall order that he or she be placed in
572 ~~transferred to~~ a mental health treatment facility ~~and provided~~
573 ~~appropriate treatment.~~ The court shall provide a copy of its
574 order authorizing placement ~~transfer~~ and all supporting
575 documentation relating to the inmate's condition to the warden of

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576 the treatment facility. If the court finds that the inmate is not
 577 mentally ill, it shall dismiss the petition for placement
 578 ~~transfer~~.

579 (4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL
 580 ~~ALLOWED~~--The warden of an institution in which a mental health
 581 treatment facility is located may refuse to place ~~admit~~ any
 582 inmate in that treatment facility who is not accompanied by
 583 adequate court orders and documentation, as required in ss.
 584 945.40-945.49.

585 Section 10. Section 945.44, Florida Statutes, is amended to
 586 read:

587 945.44 Emergency placement ~~admission~~ of inmate in a ~~to~~
 588 mental health treatment facility.--

589 (1) CRITERIA.--An inmate may be placed in a mental health
 590 treatment facility on an emergency basis if he or she is mentally
 591 ill and in immediate need of care and treatment, as defined in s.
 592 945.42(5).

593 (2) PROCEDURE FOR EMERGENCY PLACEMENT ADMISSION.--An inmate
 594 who is mentally ill and in immediate need of care and treatment
 595 that ~~which~~ cannot be provided at the institution where he or she
 596 is confined may be placed in ~~admitted to~~ a mental health
 597 treatment facility on an emergency basis. The inmate may be
 598 placed ~~transferred~~ immediately in a mental health treatment ~~to~~
 599 ~~the~~ facility and shall be accompanied by the recommendation of
 600 the warden of the institution where the inmate is confined, which
 601 recommendation must ~~shall~~ state the need for the emergency
 602 placement ~~transfer~~ and ~~shall~~ include a written opinion of a
 603 physician verifying the need for the emergency placement
 604 ~~transfer~~. Upon the emergency placement ~~the admission~~ of the

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605 inmate ~~in to~~ the facility, the inmate shall be evaluated; if he
606 or she is determined to be in need of treatment or care, the
607 warden shall initiate proceedings for placement of the inmate, as
608 described in s. 945.43(2).

609 Section 11. Section 945.45, Florida Statutes, is amended to
610 read:

611 945.45 ~~Procedure for~~ Continued placement of inmates in a
612 mental health treatment facility.--

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

616 (2) ~~(1)~~ PROCEDURE FOR CONTINUED PLACEMENT OF AN INMATE IN A
617 MENTAL HEALTH TREATMENT FACILITY.--

618 (a) ~~If continued placement of an inmate is necessary,~~ The
619 warden shall, prior to the expiration of the period during which
620 the treatment facility is authorized to retain the inmate, file a
621 petition with the Division of Administrative Hearings for request
622 an order authorizing continued placement. The petition must ~~This~~
623 ~~request shall~~ be accompanied by a statement from the inmate's
624 physician justifying the petition request and providing a brief
625 summary of the inmate's treatment during the time he or she has
626 been placed. In addition, the warden shall submit an
627 individualized plan for the inmate for whom he or she is
628 requesting continued placement. The inmate may remain in a mental
629 health treatment facility pending a hearing after the timely
630 filing of the petition.

631 (b) Notification of this request for retention shall be
632 mailed to the inmate, ~~and the inmate's representative~~ along with
633 a waiver-of-hearing form and the completed petition, requesting

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634 ~~the inmate's only a signature and a waiver of hearing form.~~ The
635 waiver-of-hearing form shall require express and informed consent
636 and shall state that the inmate is entitled to an administrative
637 ~~a~~ hearing under the law; that the inmate is entitled to be
638 represented by an attorney at the hearing and that, if the inmate
639 cannot afford an attorney, one will be appointed; and that, if it
640 is shown at the hearing that the inmate does not meet the
641 criteria for continued placement, he or she will be transferred
642 out of the mental health treatment facility to another facility
643 ~~of the department.~~ If the inmate ~~or the inmate's representative~~
644 does not sign the petition, or if the inmate does not sign a
645 waiver within 15 days, the administrative law judge shall notice
646 a hearing with regard to the inmate involved in accordance with
647 ss. 120.569 and 120.57(1).

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

650 (a) The hearing on a petition for the continued placement
651 of an inmate in a mental health treatment facility is an
652 administrative hearing and shall be conducted in accordance with
653 ss. 120.569 and 120.57(1), except that an order entered by the
654 administrative law judge is final and subject to judicial review
655 in accordance with s. 120.68. An administrative law judge shall
656 be assigned by the Division of Administrative Hearings to conduct
657 hearings for continued placement.

658 (b) The administrative law judge may waive the presence of
659 the inmate at the hearing if such waiver is consistent with the
660 best interests of the inmate and the inmate's counsel does not
661 object.

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662 (c)~~(2)~~ If, at a hearing pursuant to ss. 945.40-945.49, the
663 administrative law judge finds that the inmate no longer meets
664 the criteria for placement ~~treatment~~, he or she shall order that
665 the inmate be transferred out of the mental health treatment
666 facility ~~to another facility of the department~~.

667 (d)~~(3)~~ If the inmate waives the hearing or if the
668 administrative law judge finds that the inmate is in need of
669 continued placement ~~treatment~~, the administrative law judge shall
670 enter an order authorizing such continued placement ~~treatment~~ for
671 a period not to exceed 1 year. The same procedure shall be
672 repeated prior to the expiration of each additional 1-year period
673 that the inmate is retained in the mental health treatment
674 facility.

675 ~~(4) Hearings on requests for orders authorizing continued~~
676 ~~placement filed in accordance with this section shall be~~
677 ~~conducted in accordance with the provisions of ss. 120.569 and~~
678 ~~120.57(1), except that any order entered by the administrative~~
679 ~~law judge shall be final and subject to judicial review in~~
680 ~~accordance with s. 120.68.~~

681 Section 12. Section 945.46, Florida Statutes, is amended to
682 read:

683 945.46 Initiation of involuntary placement proceedings with
684 respect to a mentally ill inmate scheduled for release.--

685 (1) If an inmate who is receiving mental health treatment
686 in the department is scheduled for release through expiration of
687 sentence or any other means, but continues to be mentally ill and
688 in need of care and treatment, as defined in s. 945.42(6), the
689 warden is authorized to initiate procedures for involuntary

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690 placement pursuant to ~~the provisions of s. 394.467~~, 60 days prior
691 to such release.

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

695 Section 13. Section 945.47, Florida Statutes, is amended to
696 read:

697 945.47 Discharge of inmate from mental health treatment.--

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

701 (a) If the inmate is no longer in need of care and
702 treatment, as defined in s. 945.42(6), he or she may be
703 transferred out of the mental health treatment facility and
704 provided with appropriate mental health services ~~to another~~
705 ~~institution in the department; or~~

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

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

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

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719 ~~(2) An inmate who is involuntarily placed pursuant to s.~~
720 ~~394.467 at the expiration of his or her sentence may be placed,~~
721 ~~by order of the court, in a facility designated by the Department~~
722 ~~of Children and Family Services as a secure, nonforensic, civil~~
723 ~~facility. Such a placement shall be conditioned upon a finding by~~
724 ~~the court of clear and convincing evidence that the inmate is~~
725 ~~manifestly dangerous to himself or herself or others. The need~~
726 ~~for such placement shall be reviewed by facility staff every 90~~
727 ~~days. At any time that a patient is considered for transfer to a~~
728 ~~nonsecure, civil unit, the court which entered the order for~~
729 ~~involuntary placement shall be notified.~~

730 (2)~~(3)~~ At any time that an inmate who has received mental
731 health treatment while in the custody of the department becomes
732 eligible for release under supervision or upon end of sentence on
733 parole, a ~~complete~~ record of the inmate's mental health treatment
734 may shall be provided to the Parole Commission and to the
735 Department of Children and Family Services upon request. The
736 record shall include, at a minimum least, a summary of the
737 inmate's diagnosis, length of stay in treatment, clinical
738 history, prognosis, prescribed medication, ~~and~~ treatment plan,
739 and recommendations for aftercare services. ~~In the event that the~~
740 ~~inmate is released on parole, the record shall be provided to the~~
741 ~~parole officer who shall assist the inmate in applying for~~
742 ~~services from a professional or an agency in the community. The~~
743 ~~application for treatment and continuation of treatment by the~~
744 ~~inmate may be made a condition of parole, as provided in s.~~
745 ~~947.19(1); and a failure to participate in prescribed treatment~~
746 ~~may be a basis for initiation of parole violation hearings.~~

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747 Section 14. Section 945.48, Florida Statutes, is amended to
748 read:

749 945.48 Rights of inmates ~~inmate~~ provided mental health
750 treatment; procedure for involuntary treatment.--

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

757 (2) RIGHT TO EXPRESS AND INFORMED CONSENT.--Any inmate
758 provided psychiatric treatment within the department shall be
759 asked to give his or her express and informed written consent for
760 such treatment. "Express and informed written consent" or
761 "consent" means consent voluntarily given in writing after a
762 conscientious and sufficient explanation and disclosure of the
763 purpose of the proposed treatment; the common side effects of the
764 treatment, if any; the expected duration of the treatment; and
765 the alternative treatment available. The explanation shall enable
766 the inmate to make a knowing and willful decision without any
767 element of fraud, deceit, or duress or any other form of
768 constraint or coercion.

769 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF
770 INMATES.--Involuntary mental health treatment of an inmate who
771 refuses treatment that is deemed to be necessary for the
772 appropriate care of the inmate and the safety of the inmate or
773 others may be provided at a mental health treatment facility. ~~an~~
774 ~~institution authorized to do so by the Assistant Secretary for~~
775 ~~Health Services under the following circumstances:~~

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776 ~~(a) In an emergency situation in which there is immediate~~
777 ~~danger to the health and safety of the inmate or other inmates,~~
778 ~~such treatment may be provided upon the written order of a~~
779 ~~physician for a period not to exceed 48 hours, excluding weekends~~
780 ~~and legal holidays. If, after the 48-hour period, the inmate has~~
781 ~~not given express and informed consent to the treatment initially~~
782 ~~refused, the warden shall, within 48 hours, excluding weekends~~
783 ~~and legal holidays, petition the circuit court serving the county~~
784 ~~in which the facility is located for an order authorizing the~~
785 ~~continued treatment of the inmate. In the interim, treatment may~~
786 ~~be continued upon the written order of a physician who has~~
787 ~~determined that the emergency situation continues to present a~~
788 ~~danger to the safety of the inmate or others. If an inmate must~~
789 ~~be isolated for mental health purposes, that decision must be~~
790 ~~reviewed within 72 hours by medical staff different from that~~
791 ~~making the original placement.~~

792 ~~(b) In a situation other than an emergency situation, The~~
793 ~~warden of the institution containing the mental health treatment~~
794 ~~facility shall petition the circuit court serving the county in~~
795 ~~which the mental health treatment facility is located for an~~
796 ~~order authorizing the treatment of the inmate. The inmate shall~~
797 ~~be provided with a copy of the petition along with the proposed~~
798 ~~treatment, the basis for the proposed treatment, the names of the~~
799 ~~examining experts, and the date, time, and location of the~~
800 ~~hearing. The inmate may have an attorney represent him or her at~~
801 ~~the hearing and, if the inmate is indigent, the court shall~~
802 ~~appoint the office of the public defender or private counsel~~
803 ~~pursuant to s. 27.40(1) to represent the inmate at the hearing.~~
804 ~~An attorney representing the inmate shall have access to the~~

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805 inmate and any records, including medical or mental health
806 records, which are relevant to the representation of the inmate.
807 ~~The order shall allow such treatment for a period not to exceed~~
808 ~~90 days from the date of the order. Unless the court is notified~~
809 ~~in writing that the inmate has provided express and informed~~
810 ~~consent in writing, that the inmate has been transferred to~~
811 ~~another institution of the department, or that the inmate is no~~
812 ~~longer in need of treatment, the warden shall, prior to the~~
813 ~~expiration of the initial 90-day order, petition the court for an~~
814 ~~order authorizing the continuation of treatment for another 90-~~
815 ~~day period. This procedure shall be repeated until the inmate~~
816 ~~provides consent or is no longer in need of treatment. Treatment~~
817 ~~may be continued pending a hearing after the filing of any~~
818 ~~petition.~~

819 (4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF
820 AN INMATE.--

821 (a) The hearing on the petition for involuntary treatment
822 shall be held within 5 days after the petition is filed and the
823 court may appoint a general or special magistrate to preside. The
824 inmate may testify or not, as he or she chooses, may cross-
825 examine witnesses testifying on behalf of the facility, and may
826 present his or her own witnesses. However, the court may waive
827 the presence of the inmate at the hearing if such waiver is
828 consistent with the best interests of the inmate and the inmate's
829 counsel does not object. One of the inmate's physicians whose
830 opinion supported the petition shall appear as a witness at the
831 hearing.

832 (b)~~(e)~~ At the hearing on the issue of whether the court
833 should authorize treatment for which an inmate has refused to

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834 give express and informed consent, the court shall determine by
835 clear and convincing evidence whether the inmate is mentally ill
836 as defined in this chapter; whether such treatment is essential
837 to the care of the inmate; and whether the treatment is
838 experimental or presents an unreasonable risk of serious,
839 hazardous, or irreversible side effects. In arriving at the
840 substitute judgment decision, the court must consider at least
841 the following:

- 842 1. The inmate's expressed preference regarding treatment;
- 843 2. The probability of adverse side effects;
- 844 3. The prognosis for the inmate without treatment; and
- 845 4. The prognosis for the inmate with treatment.

846
847 ~~The inmate and the inmate's representative shall be provided with~~
848 ~~a copy of the petition and the date, time, and location of the~~
849 ~~hearing. The inmate may have an attorney represent him or her at~~
850 ~~the hearing, and, if the inmate is indigent, the court shall~~
851 ~~appoint the office of the public defender to represent him or her~~
852 ~~at the hearing. The inmate may testify or not, as he or she~~
853 ~~chooses, may cross-examine witnesses testifying on behalf of the~~
854 ~~facility, and may present his or her own witnesses.~~

855 (c) An order authorizing involuntary treatment shall allow
856 such treatment for a period not to exceed 90 days following the
857 date of the order. Unless the court is notified in writing that
858 the inmate has provided express and informed consent in writing,
859 that the inmate has been transferred to another institution of
860 the department, or that the inmate is no longer in need of
861 treatment, the warden shall, prior to the expiration of the
862 initial 90-day order, petition the court for an order authorizing

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863 the continuation of treatment for another 90-day period. This
864 procedure shall be repeated until the inmate provides express and
865 informed consent or is no longer in need of treatment. Treatment
866 may be continued pending a hearing after the timely filing of any
867 petition.

868 (5) PROCEDURE FOR EMERGENCY TREATMENT.--In an emergency
869 situation in which there is immediate danger to the health and
870 safety of an inmate or other inmates, emergency treatment may be
871 provided at a mental health treatment facility upon the written
872 order of a physician for a period not to exceed 48 hours,
873 excluding weekends and legal holidays. If, after the 48-hour
874 period, the inmate has not given express and informed consent to
875 the treatment initially refused, the warden shall, within 48
876 hours, excluding weekends and legal holidays, petition the
877 circuit court, in accordance with the procedures described in
878 this section, for an order authorizing the continued treatment of
879 the inmate. In the interim, treatment may be continued upon the
880 written order of a physician who has determined that the
881 emergency situation continues to present a danger to the safety
882 of the inmate or others. If an inmate must be isolated for mental
883 health purposes, that decision must be reviewed within 72 hours
884 by a different psychological professional or a physician other
885 than the one making the original placement.

886 (6) ~~(d)~~ EMERGENCY TREATMENT.--In addition to the other above
887 provisions of this section for mental health treatment, when the
888 consent ~~permission~~ of the inmate cannot be obtained, the warden
889 of a mental health treatment facility, or his or her designated
890 representative, with the concurrence of the inmate's attending
891 physician, may authorize emergency surgical or nonpsychiatric

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892 medical treatment if such treatment is deemed lifesaving or there
893 is a situation threatening serious bodily harm to the inmate.

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

900 Section 15. Section 945.49, Florida Statutes, is amended to
901 read:

902 945.49 Operation and administration.--

903 (1) ADMINISTRATION.--The department is authorized to
904 contract with the appropriate entities, agencies, persons, and
905 local governing bodies to provide mental health services pursuant
906 to ss. 945.40-945.49.

907 (2) RULES.--The department, in cooperation with the Mental
908 Health Program Office of the Department of Children and Family
909 Services, shall adopt rules necessary for administration of ss.
910 945.40-945.49 in accordance with chapter 120.

911 (3) ORIENTATION AND TRAINING.--Correctional officers
912 employed by a mental health treatment facility shall receive
913 specialized training above and beyond that required for basic
914 certification pursuant to chapter 943. ~~Such training shall be in~~
915 ~~accordance with requirements of the Criminal Justice Standards~~
916 ~~and Training Commission.~~

917 (4) STATUS OF INMATE.--An inmate receiving mental health
918 treatment shall be subject to the same standards applied to other
919 inmates in the department, including, but not limited to,
920 consideration for parole, release by reason of gain-time

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921 allowances as provided for in s. 944.291, and release by
922 expiration of sentence. ~~ADMINISTRATIVE LAW JUDGES.--One or more~~
923 ~~administrative law judges shall be assigned by the Division of~~
924 ~~Administrative Hearings to conduct hearings for continued~~
925 ~~placement.~~

926 Section 16. Paragraph (c) of subsection (3) of section
927 948.01, Florida Statutes, is amended to read:

928 948.01 When court may place defendant on probation or into
929 community control.--

930 (3) If, after considering the provisions of subsection (2)
931 and the offender's prior record or the seriousness of the
932 offense, it appears to the court in the case of a felony
933 disposition that probation is an unsuitable dispositional
934 alternative to imprisonment, the court may place the offender in
935 a community control program as provided in s. 948.10. Or, in a
936 case of prior disposition of a felony commitment, upon motion of
937 the offender or the department or upon its own motion, the court
938 may, within the period of its retained jurisdiction following
939 commitment, suspend the further execution of the disposition and
940 place the offender in a community control program upon such terms
941 as the court may require. The court may consult with a local
942 offender advisory council pursuant to s. 948.90 with respect to
943 the placement of an offender into community control. Not later
944 than 3 working days before the hearing on the motion, the
945 department shall forward to the court all relevant material on
946 the offender's progress while in custody. If this sentencing
947 alternative to incarceration is utilized, the court shall:

948 ~~(c) Require the department to provide notifications~~
949 ~~pursuant to s. 948.10(7).~~

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950 Section 17. Section 948.10, Florida Statutes, is amended to
951 read:

952 948.10 Community control programs.--

953 (1) The Department of Corrections shall develop and
954 administer a community control program. ~~Such community control~~
955 ~~program and required manuals shall be developed in consultation~~
956 ~~with the Florida Conference of Circuit Court Judges and the~~
957 ~~office of the State Courts Administrator.~~ This complementary
958 program shall be rigidly structured and designed to accommodate
959 offenders who, in the absence of such a program, would have been
960 incarcerated. The program shall focus on the provision of
961 sanctions and consequences which are commensurate with the
962 seriousness of the crime. The program shall offer the courts and
963 the Parole Commission an alternative, community-based method to
964 punish an offender in lieu of incarceration when the offender is
965 a member of one of the following target groups:

966 (a) Probation violators charged with technical violations
967 or misdemeanor violations.

968 (b) Parole violators charged with technical violations or
969 misdemeanor violations.

970 (c) Individuals found guilty of felonies, who, due to their
971 criminal backgrounds or the seriousness of the offenses, would
972 not be placed on regular probation.

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

974 ~~(a) Convicted of or adjudication withheld for a forcible~~
975 ~~felony as defined in s. 776.08, and~~

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

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979 ~~Nothing in this subsection prohibits placement of certain inmates~~
980 ~~on community control pursuant to s. 947.1747. For the purposes of~~
981 ~~this subsection, a forcible felony does not include manslaughter~~
982 ~~or burglary.~~

983 (2)~~(3)~~ The department shall commit not less than 10 percent
984 of the parole and probation field staff and supporting resources
985 to the operation of the community control program. Caseloads
986 should be restricted to a maximum of 25 cases per officer in
987 order to ensure an adequate level of staffing. Community control
988 is an individualized program in which the offender is restricted
989 to noninstitutional quarters or restricted to his or her own
990 residence subject to an authorized level of limited freedom.

991 ~~(4) The department shall develop and implement procedures~~
992 ~~to diagnose offenders during the prison intake process in order~~
993 ~~to recommend to the sentencing courts, during the period of~~
994 ~~retained jurisdiction, suitable candidates for placement in a~~
995 ~~program of community control.~~

996 ~~(5) The Department of Corrections shall develop, or shall~~
997 ~~contract for the development of, an implementation manual, a~~
998 ~~resource directory, and training programs for implementing~~
999 ~~community control programs.~~

1000 ~~(a)1. The community control implementation manual shall~~
1001 ~~include, but shall not be limited to, an explanation of the types~~
1002 ~~of offenders who should be placed in community control programs,~~
1003 ~~procedures for diagnosing offenders, objectives and goals of such~~
1004 ~~placements, examples of alternative placements based upon the~~
1005 ~~experience of other states, and instruction in developing an~~
1006 ~~individualized program for each offender.~~

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1007 2. ~~An offender's individualized program shall include~~
1008 ~~diagnosis of treatment needs in the areas of education, substance~~
1009 ~~abuse, and mental health, as well as community sanction~~
1010 ~~provisions, restitution and community service provisions,~~
1011 ~~rehabilitation objectives and programs, and a schedule for~~
1012 ~~periodic review and reevaluation of such individualized programs.~~
1013 ~~Individualized programs for offenders who committed controlled~~
1014 ~~substance violations shall include provision for the conduct of~~
1015 ~~random substance abuse testing intermittently throughout the term~~
1016 ~~of supervision, upon the direction of the correctional probation~~
1017 ~~officer as defined in s. 943.10(3).~~

1018 (b) ~~The community control resource directory shall include,~~
1019 ~~but shall not be limited to, for each circuit in the state, an~~
1020 ~~identification and description of community resources that are~~
1021 ~~available for the implementation of community control programs,~~
1022 ~~which resources include the following:~~

1023 1. ~~The name, address, phone, county location, capacity, and~~
1024 ~~cost.~~

1025 2. ~~Client eligibility and characteristics which prohibit~~
1026 ~~acceptance.~~

1027 3. ~~The objectives of the program.~~

1028 4. ~~The primary source of referrals.~~

1029 5. ~~The average length of stay.~~

1030 6. ~~The services offered.~~

1031 (c) ~~Training programs shall be provided for correctional~~
1032 ~~field staff, local offender advisory councils, and others~~
1033 ~~responsible for the implementation of community control programs.~~

1034 (6) ~~The Florida Court Education Council and the office of~~
1035 ~~the State Courts Administrator shall coordinate the development~~

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1036 ~~and implementation of a reference manual, directory, and training~~
1037 ~~programs for judges in relation to community control disposition.~~

1038 ~~(7) Upon written request, when an offender is placed on~~
1039 ~~community control, the department shall notify:~~

1040 ~~(a) The original arresting law enforcement agency.~~

1041 ~~(b) The sheriff or chief law enforcement officer of the~~
1042 ~~county in which the offender is to be placed.~~

1043 ~~(c) The chief officer of any local law enforcement agency~~
1044 ~~within whose jurisdiction the offender is to be placed.~~

1045 ~~(d) The victim of the offense, the victim's parent or~~
1046 ~~guardian if the victim is a minor, the lawful representative of~~
1047 ~~the victim or the victim's parent or guardian if the victim is a~~
1048 ~~minor, or the next of kin if the victim is a homicide victim.~~

1049
1050 ~~Such notification shall include the name and street address of~~
1051 ~~the offender, the length of supervision, and the nature of the~~
1052 ~~offense. Update notification must be provided with respect to~~
1053 ~~violation of the terms or conditions of the placement.~~

1054 ~~(8) If an offender is sentenced to community control by the~~
1055 ~~court and the offender is ineligible to be placed on community~~
1056 ~~control as provided in subsection (2), the department shall:~~

1057 ~~(a) Review and verify whether an ineligible offender was~~
1058 ~~placed on community control.~~

1059 ~~(b) Within 30 days after receipt of the order, notify the~~
1060 ~~sentencing judge, the state attorney, and the Attorney General~~
1061 ~~that the offender was ineligible for placement on community~~
1062 ~~control.~~

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1063 ~~(c) Provide a quarterly report to the chief judge and the~~
1064 ~~state attorney of each circuit citing the number of ineligible~~
1065 ~~offenders placed on community control within that circuit.~~

1066 ~~(d) Provide an annual report to the Governor, the President~~
1067 ~~of the Senate, the Speaker of the House of Representatives, and~~
1068 ~~the Chief Justice of the Supreme Court on the placement of~~
1069 ~~ineligible offenders on community control in order to assist in~~
1070 ~~preparing judicial education programs or for any other purpose.~~

1071 (3)~~(9)~~ Procedures governing violations of community control
1072 shall be the same as those described in s. 948.06 with respect to
1073 probation.

1074 (4)~~(10)~~ Upon completion of the sanctions imposed in the
1075 community control plan before the expiration of the term ordered
1076 by the court, the department may petition the court to discharge
1077 the offender from community control supervision or to return the
1078 offender to a program of regular probation supervision. In
1079 considering the petition, the court should recognize the limited
1080 staff resources committed to the community control program, the
1081 purpose of the program, and the offender's successful compliance
1082 with the conditions set forth in the order of the court.

1083 ~~(11) The Department of Corrections shall:~~

1084 ~~(a) Develop and maintain a weighted statewide caseload~~
1085 ~~equalization strategy designed to ensure that high-risk offenders~~
1086 ~~receive the highest level of supervision; and~~

1087 ~~(b) Develop and implement a supervision risk assessment~~
1088 ~~instrument for the community control population which is similar~~
1089 ~~to the probation risk assessment instrument established by the~~
1090 ~~National Institute of Justice.~~

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1091 ~~(5)~~~~(12)~~ In its annual report to the Governor, the President
1092 of the Senate, and the Speaker of the House of Representatives
1093 under s. 20.315(5), the department shall include a detailed
1094 analysis of the community control program and the department's
1095 specific efforts to protect the public from offenders placed on
1096 community control. The analysis must include, but need not be
1097 limited to, specific information on the department's ability to
1098 meet minimum officer-to-offender contact standards, the number of
1099 crimes committed by offenders on community control, and the level
1100 of community supervision provided.

1101 Section 18. Subsections (1) and (2) of section 958.04,
1102 Florida Statutes, are amended to read:

1103 958.04 Judicial disposition of youthful offenders.--

1104 (1) The court may sentence as a youthful offender any
1105 person:

1106 (a) Who is at least 18 years of age or who has been
1107 transferred for prosecution to the criminal division of the
1108 circuit court pursuant to chapter 985;

1109 (b) Who is found guilty of or who has tendered, and the
1110 court has accepted, a plea of nolo contendere or guilty to a
1111 crime ~~that which~~ is, under the laws of this state, a felony if
1112 the offender is younger than 21 years of age at the time sentence
1113 is imposed ~~such crime was committed before the defendant's 21st~~
1114 ~~birthday;~~ and

1115 (c) Who has not previously been classified as a youthful
1116 offender under the provisions of this act; however, a ~~no~~ person
1117 who has been found guilty of a capital or life felony may not be
1118 sentenced as a youthful offender under this act.

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1119 (2) In lieu of other criminal penalties authorized by law
1120 and notwithstanding any imposition of consecutive sentences, the
1121 court shall dispose of the criminal case as follows:

1122 (a) The court may place a youthful offender under
1123 supervision on probation or in a community control program, with
1124 or without an adjudication of guilt, under such conditions as the
1125 court may lawfully impose for a period of not more than 6 years.
1126 Such period of supervision may ~~shall~~ not exceed the maximum
1127 sentence for the offense for which the youthful offender was
1128 found guilty.

1129 (b) The court may impose a period of incarceration as a
1130 condition of probation or community control, which period of
1131 incarceration shall be served in ~~either~~ a county facility, a
1132 department probation and restitution center, or a community
1133 residential facility that ~~which~~ is owned and operated by any
1134 public or private entity providing such services. A ~~No~~ youthful
1135 offender may not be required to serve a period of incarceration
1136 in a community correctional center as defined in s. 944.026.
1137 Admission to a department facility or center shall be contingent
1138 upon the availability of bed space and shall take into account
1139 the purpose and function of such facility or center. Placement in
1140 such a facility or center may ~~shall~~ not exceed 364 days.

1141 (c) The court may impose a split sentence whereby the
1142 youthful offender is to be placed on probation or community
1143 control upon completion of any specified period of incarceration;
1144 however, if the incarceration period is to be served in a
1145 department facility other than a probation and restitution center
1146 or community residential facility, such period shall be for not
1147 less than 1 year or more than 4 years. The period of probation or

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1148 community control shall commence immediately upon the release of
1149 the youthful offender from incarceration. The period of
1150 incarceration imposed or served and the period of probation or
1151 community control, when added together, may ~~shall~~ not exceed 6
1152 years.

1153 (d) The court may commit the youthful offender to the
1154 custody of the department for a period of not more than 6 years,
1155 provided that any such commitment may ~~shall~~ not exceed the
1156 maximum sentence for the offense for which the youthful offender
1157 has been convicted. Successful participation in the youthful
1158 offender program by an offender who is sentenced as a youthful
1159 offender by the court pursuant to this section, or is classified
1160 as such by the department, may result in a recommendation to the
1161 court, by the department, for a modification or early termination
1162 of probation, community control, or the sentence at any time
1163 prior to the scheduled expiration of such term. The department
1164 shall adopt rules defining criteria for successful participation
1165 in the youthful offender program which shall include program
1166 participation, academic and vocational training, and satisfactory
1167 adjustment. When a modification of the sentence results in the
1168 reduction of a term of incarceration, the court may impose a term
1169 of probation or community control which, when added to the term
1170 of incarceration, may ~~shall~~ not exceed the original sentence
1171 imposed.

1172 Section 19. Section 958.11, Florida Statutes, is amended to
1173 read:

1174 958.11 Designation of institutions and programs for
1175 youthful offenders; assignment from youthful offender
1176 institutions and programs.--

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1177 (1) The department shall by rule designate separate
1178 institutions and programs for youthful offenders and shall employ
1179 and utilize personnel specially qualified by training and
1180 experience to operate all such institutions and programs for
1181 youthful offenders. Youthful offenders who are at least 14 years
1182 of age but who have not yet reached the age of 19 years at the
1183 time of reception shall be separated from youthful offenders who
1184 are 19 years of age or older, except that if the population of
1185 the facilities designated for 14-year-old to 18-year-old youthful
1186 offenders exceeds 100 percent of lawful capacity, the department
1187 may assign 18-year-old youthful offenders to the 19-24 age group
1188 facility.

1189 (2) Youthful offender institutions and programs shall
1190 contain only those youthful offenders sentenced as such by a
1191 court or classified as such by the department, pursuant to the
1192 requirements of subsections (4) and (6), except that under
1193 special circumstances select adult offenders may be assigned to
1194 youthful offender institutions. Female youthful offenders of all
1195 ages may continue to be housed together at those institutions
1196 designated by department rule ~~Florida Correctional Institution~~
1197 ~~and Broward Correctional Institution~~ until such time as
1198 institutions for a female youthful offenders are offender
1199 institution is established or adapted to allow for separation by
1200 age and to accommodate all custody classifications.

1201 (3) The department may assign a youthful offender to a
1202 facility in the state correctional system which is not designated
1203 for the care, custody, control, and supervision of youthful
1204 offenders or an age group only in the following circumstances:

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1205 (a) If the youthful offender is convicted of a new crime
1206 which is a felony under the laws of this state.

1207 (b) If the youthful offender becomes such a serious
1208 management or disciplinary problem resulting from serious
1209 violations of the rules of the department that his or her
1210 original assignment would be detrimental to the interests of the
1211 program and to other inmates committed thereto.

1212 (c) If the youthful offender needs medical treatment,
1213 health services, or other specialized treatment otherwise not
1214 available at the youthful offender facility.

1215 (d) If the department determines that the youthful offender
1216 should be transferred outside of the state correctional system,
1217 as provided by law, for services not provided by the department.

1218 (e) If bed space is not available in a designated community
1219 residential facility, the department may assign a youthful
1220 offender to a community residential facility, provided that the
1221 youthful offender is separated from other offenders insofar as is
1222 practical.

1223 (f) If the youthful offender was originally assigned to a
1224 facility designated for 14-year-old to 18-year-old youthful
1225 offenders, but subsequently reaches the age of 19 years, the
1226 department may retain the youthful offender in the facility if
1227 the department determines that it is in the best interest of the
1228 youthful offender and the department.

1229 (g) If the department determines that a youthful offender
1230 originally assigned to a facility designated for the 19-24 age
1231 group is mentally or physically vulnerable by such placement, the
1232 department may reassign a youthful offender to a facility
1233 designated for the 14-18 age group if the department determines

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1234 that a reassignment is necessary to protect the safety of the
1235 youthful offender or the institution.

1236 (h) If the department determines that a youthful offender
1237 originally assigned to a facility designated for the 14-18 age
1238 group is disruptive, incorrigible, or uncontrollable, the
1239 department may reassign a youthful offender to a facility
1240 designated for the 19-24 age group if the department determines
1241 that a reassignment would best serve the interests of the
1242 youthful offender and the department.

1243 (4) The department ~~Office of the Assistant Secretary for~~
1244 ~~Youthful Offenders~~ shall continuously screen all institutions,
1245 facilities, and programs for any inmate who meets the eligibility
1246 requirements for youthful offender designation specified in s.
1247 958.04(1)(a) and (c) whose age does not exceed 24 years and whose
1248 total length of sentence does not exceed 10 years, and the
1249 department may classify and assign as a youthful offender any
1250 inmate who meets the criteria of this subsection.

1251 (5) The department ~~Population Movement and Control~~
1252 ~~Coordinator~~ shall coordinate all youthful offender assignments or
1253 transfers and shall ~~consult with the Office of the Assistant~~
1254 ~~Secretary for Youthful Offenders. The Office of the Assistant~~
1255 ~~Secretary for Youthful Offenders shall~~ review and maintain access
1256 to full and complete documentation and substantiation of all such
1257 assignments or transfers of youthful offenders to or from
1258 facilities in the state correctional system which are not
1259 designated for their care, custody, and control, except
1260 assignments or transfers made pursuant to paragraph (3)(c).

1261 (6) The department may assign to a youthful offender
1262 facility any inmate, except a capital or life felon, whose age

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1263 does not exceed 19 years but who does not otherwise meet the
1264 criteria of this section, if the department ~~Assistant Secretary~~
1265 ~~for Youthful Offenders~~ determines that such inmate's mental or
1266 physical vulnerability would substantially or materially
1267 jeopardize his or her safety in a nonyouthful offender facility.
1268 Assignments made under this subsection shall be included in the
1269 department's annual report.

1270 Section 20. Section 958.12, Florida Statutes, is amended to
1271 read:

1272 958.12 Participation in certain activities required.--

1273 (1) A youthful offender shall be required to participate in
1274 work assignments, and in career, academic, counseling, and other
1275 rehabilitative programs in accordance with this section,
1276 including, but not limited to:

1277 (a) All youthful offenders may be required, as appropriate,
1278 to participate in:

- 1279 1. Reception and orientation.
- 1280 2. Evaluation, needs assessment, and classification.
- 1281 3. Educational programs.
- 1282 4. Career and job training.
- 1283 5. Life and socialization skills training, including
1284 anger/aggression control.

- 1285 6. Prerelease orientation and planning.

- 1286 7. Appropriate transition services.

1287 (b) In addition to the requirements in paragraph (a), the
1288 department shall make available:

- 1289 1. Religious services and counseling.
- 1290 2. Social services.
- 1291 3. Substance abuse treatment and counseling.

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- 1292 4. Psychological and psychiatric services.
1293 5. Library services.
1294 6. Medical and dental health care.
1295 7. Athletic, recreational, and leisure time activities.
1296 8. Mail and visiting privileges.
1297

1298 Income derived by a youthful offender from participation in such
1299 activities may be used, in part, to defray a portion of the costs
1300 of his or her incarceration or supervision; to satisfy
1301 preexisting obligations; to pay fines, counseling fees, or other
1302 costs lawfully imposed; or to pay restitution to the victim of
1303 the crime for which the youthful offender has been convicted in
1304 an amount determined by the sentencing court. Any such income not
1305 used for such reasons or not used as provided in s. 946.513 or s.
1306 958.09 shall be placed in a bank account for use by the youthful
1307 offender upon his or her release.

1308 (2) A comprehensive transition and postrelease plan shall
1309 be developed for the youthful offender by a team consisting of a
1310 transition assistance officer, a classification officer, an
1311 educational representative, a health services administrator, a
1312 probation and parole officer, and the youthful offender.

1313 ~~(3) A youthful offender shall be visited by a probation and~~
1314 ~~parole officer prior to the offender's release from incarceration~~
1315 ~~in order to assist in the youthful offender's transition.~~

1316 (3)~~(4)~~ Community partnerships shall be developed by the
1317 department to provide postrelease community resources. The
1318 department shall develop partnerships with entities that ~~which~~
1319 include, but are not limited to, state agencies ~~the Department of~~
1320 ~~Labor and Employment Security, the Department of Children and~~

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1321 ~~Family Services,~~ community health agencies, private agencies, and
1322 school systems.

1323 ~~(4)(5)~~ If supervision of the youthful offender after
1324 release from incarceration is required, this ~~and~~ may be
1325 accomplished in a residential or nonresidential program or
1326 intensive day treatment, ~~or~~ through supervision by a correctional
1327 probation ~~and parole~~ officer.

1328 Section 21. This act shall take effect October 1, 2008.