

By the Committees on Children, Families, and Elder Affairs;
Criminal Justice; Criminal Justice

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1 A bill to be entitled

2 An act relating to the Department of Corrections; amending
3 s. 120.57, F.S.; authorizing administrative law judges to
4 appoint private pro bono attorneys in the continued
5 placement hearings of inmates; amending s. 921.187, F.S.;
6 deleting certain provisions limiting circumstances under
7 which an offender may be placed in community control;
8 amending s. 940.061, F.S.; specifying that the Department
9 of Corrections meets its statutory obligation to assist
10 released offenders with completing the application for the
11 restoration of civil rights by sending an electronic list
12 to the Parole Commission each month of those inmates and
13 offenders who were released from incarceration or
14 terminated from supervision during the preceding month;
15 amending s. 943.16, F.S.; eliminating provisions requiring
16 that a law enforcement officer reimburse the employing
17 agency for wages and benefits paid by the employing agency
18 if the officer terminates employment before the end of a
19 2-year commitment period; eliminating wages and benefits
20 from the costs that employing agencies may recover;
21 eliminating the definition of the term "academy training
22 period"; amending s. 944.1905, F.S.; authorizing the
23 department to assign an offender sentenced to death to a
24 facility for youthful offenders until the offender reaches
25 a specified age; deleting provisions requiring that
26 certain offenders younger than 18 years of age be housed
27 and provided certain services separately from older
28 offenders or placed in a facility for youthful offenders;
29 amending s. 944.293, F.S.; specifying that the Department

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

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59 facility; providing that the administrative law judge may
60 waive the presence of the inmate at the hearing under
61 certain conditions; amending s. 945.46, F.S.; authorizing
62 the warden to initiate procedures for the involuntary
63 examination of an inmate who has a mental illness and
64 meets certain criteria; amending s. 945.47, F.S.;

65 providing for the transfer of an inmate who is no longer
66 in need of mental health treatment; deleting certain
67 provisions governing involuntary placement; requiring that
68 a summary of the inmate's treatment be provided to the
69 Parole Commission and the Department of Children and
70 Family Services upon request; amending s. 945.48, F.S.;

71 revising the procedure for the involuntary mental health
72 treatment of an inmate; providing for the warden of the
73 institution containing the mental health treatment
74 facility to petition the circuit court for an order
75 authorizing involuntary treatment; providing requirements
76 for the hearing on involuntary treatment; limiting the
77 period that an order authorizing involuntary treatment is
78 effective; providing a procedure for emergency treatment;

79 amending s. 945.49, F.S.; deleting a provision requiring
80 that training provided to correctional officers employed
81 by a mental health treatment facility be in accordance
82 with the requirements of the Criminal Justice Standards
83 and Training Commission; amending s. 948.01, F.S.;

84 deleting certain provisions limiting circumstances under
85 which an offender may be placed in community control;
86 amending s. 948.10, F.S.; deleting a requirement that
87 community control programs and manuals be developed in

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

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118 Be It Enacted by the Legislature of the State of Florida:

119

120 Section 1. Paragraph (b) of subsection (1) of section
121 120.57, Florida Statutes, is amended to read:

122 120.57 Additional procedures for particular cases.--

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

125 (b) All parties shall have an opportunity to respond, to
126 present evidence and argument on all issues involved, to conduct
127 cross-examination and submit rebuttal evidence, to submit
128 proposed findings of facts and orders, to file exceptions to the
129 presiding officer's recommended order, and to be represented by
130 counsel or other qualified representative. In proceedings for the
131 continued placement of inmates under s. 945.45, the
132 administrative law judge may appoint a private pro bono attorney
133 in the circuit in which the treatment facility is located to
134 represent the inmate. When appropriate, the general public may be
135 given an opportunity to present oral or written communications.
136 If the agency proposes to consider such material, then all
137 parties shall be given an opportunity to cross-examine or
138 challenge or rebut the material.

139 Section 2. Subsections (2), (3), and (4) of section
140 921.187, Florida Statutes, are amended to read:

141 921.187 Disposition and sentencing; alternatives;
142 restitution.--

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

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

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

148
149 ~~Nothing in this subsection prohibits placement of certain inmates~~
150 ~~on community control pursuant to s. 947.1747. For purposes of~~
151 ~~this subsection, a forcible felony does not include manslaughter~~
152 ~~or burglary.~~

153 (2)~~(3)~~ In addition to any other penalty provided by law for
154 an offense enumerated in s. 775.0877(1)(a)-(n), if the offender
155 is convicted of criminal transmission of HIV pursuant to s.
156 775.0877, the court may sentence the offender to criminal
157 quarantine community control as described in s. 948.001.

158 (3)~~(4)~~ The court shall require an offender to make
159 restitution under s. 775.089, unless the court finds clear and
160 compelling reasons not to order such restitution. If the court
161 does not order restitution, or orders restitution of only a
162 portion of the damages, as provided in s. 775.089, the court
163 shall state the reasons on the record in detail. An order
164 requiring an offender to make restitution to a victim under s.
165 775.089 does not remove or diminish the requirement that the
166 court order payment to the Crimes Compensation Trust Fund under
167 chapter 960.

168 Section 3. Section 940.061, Florida Statutes, is amended to
169 read:

170 940.061 Informing persons about executive clemency and
171 restoration of civil rights.--The Department of Corrections shall
172 inform and educate inmates and offenders on community supervision
173 about the restoration of civil rights and assist eligible inmates
174 and offenders on community supervision with the completion of the

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175 application for the restoration of civil rights. The department
176 may meet its obligation to assist inmates and offenders with
177 completing the application for the restoration of civil rights by
178 electronically providing to the Parole Commission each month a
179 list of inmates who were released from incarceration and
180 offenders who were terminated from supervision during the
181 preceding month.

182 Section 4. Section 943.16, Florida Statutes, is amended to
183 read:

184 943.16 Payment of tuition or officer certification
185 examination fee by employing agency; reimbursement of tuition,
186 other course expenses, wages, and benefits.--

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

190 (2) ~~(a)~~ A trainee who attends such approved training program
191 at the expense of an employing agency must remain in the
192 employment or appointment of such employing agency for a period
193 of not less than 2 years after graduation from the basic recruit
194 training program. If employment or appointment is terminated on
195 the trainee's own initiative within 2 years, he or she shall
196 reimburse the employing agency for the full cost of his or her
197 tuition and, other course expenses, ~~and additional amounts as~~
198 ~~provided in paragraph (b).~~

199 ~~(b) In addition to reimbursement for the full cost of~~
200 ~~tuition and other course expenses, a trainee terminating~~
201 ~~employment as provided in paragraph (a) shall reimburse the~~
202 ~~employing agency for the trainee's wages and benefits paid by the~~

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203 ~~employing agency during the academy training period according to~~
204 ~~the following schedule:~~

205 ~~1. For a trainee terminating employment within 6 months of~~
206 ~~graduation from the basic recruit training program, the full~~
207 ~~amount of wages and benefits paid during the academy training~~
208 ~~period.~~

209 ~~2. For a trainee terminating employment within 6 months and~~
210 ~~1 day to 12 months of graduation from the basic recruit training~~
211 ~~program, an amount equal to three-fourths of the full amount of~~
212 ~~wages and benefits paid during the academy training period.~~

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

217 ~~4. For a trainee terminating employment within 18 months~~
218 ~~and 1 day to 24 months of graduation from the basic recruit~~
219 ~~training program, an amount equal to one-fourth of the full~~
220 ~~amount of wages and benefits paid during the academy training~~
221 ~~period.~~

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

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

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232 (5) For purposes of this section, ~~"academy training period"~~
233 ~~means the period of time that a trainee is attending an approved~~
234 ~~basic recruit training program in a law enforcement or~~
235 ~~correctional officer academy class for purposes of obtaining~~
236 ~~certification pursuant to this chapter, until the date of~~
237 ~~graduation from such class.~~ the term "other course expenses"
238 includes the cost of meals.

239 (6) This section does not apply to trainees who terminate
240 employment with the employing agency and resign their
241 certification upon termination in order to obtain employment for
242 which certification under this chapter is not required. Further,
243 this section does not apply to trainees attending auxiliary
244 officer training.

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

249 Section 5. Subsection (5) of section 944.1905, Florida
250 Statutes, is amended to read:

251 944.1905 Initial inmate classification; inmate
252 reclassification.--The Department of Corrections shall classify
253 inmates pursuant to an objective classification scheme. The
254 initial inmate classification questionnaire and the inmate
255 reclassification questionnaire must cover both aggravating and
256 mitigating factors.

257 (5) (a) Notwithstanding any other provision of this section,
258 the department shall assign to facilities housing youthful
259 offenders ~~specific correctional facilities~~ all inmates who are
260 less than 18 years of age and who are not eligible for assignment

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261 ~~and have not been assigned to a facility for youthful offenders,~~
262 ~~with the exception of those who have received a sentence of~~
263 ~~death. Such an inmate shall be assigned to a facility for~~
264 ~~youthful offenders until the inmate is 18 years of age. At the~~
265 ~~discretion of the department, an inmate may be housed in a~~
266 ~~facility for youthful offenders until the inmate is 21 years of~~
267 ~~age. Any such inmate who is less than 18 years of age shall be~~
268 ~~housed in a dormitory that is separate from inmates who are 18~~
269 ~~years of age or older. Furthermore, the department shall provide~~
270 ~~any food service, education, and recreation for such inmate~~
271 ~~separately from inmates who are 18 years of age or older.~~

272 ~~(b) Notwithstanding the requirements of s. 958.11, any~~
273 ~~inmate who is less than 18 years of age, who was 15 years of age~~
274 ~~or younger at the time of his or her offense, and who has no~~
275 ~~prior juvenile adjudication must be placed in a facility for~~
276 ~~youthful offenders until the inmate is 18 years of age. At the~~
277 ~~discretion of the department, such an inmate may be placed in a~~
278 ~~facility for youthful offenders until the inmate is 21 years of~~
279 ~~age.~~

280 ~~(b)(e)~~ Any inmate who is assigned to a facility under
281 paragraph (a) is subject to the provisions of s. 958.11 regarding
282 facility assignments, and ~~or paragraph (b)~~ shall be removed and
283 reassigned to the general inmate population if his or her
284 behavior threatens the safety of other inmates or correctional
285 staff.

286 Section 6. Section 944.293, Florida Statutes, is amended to
287 read:

288 944.293 Initiation of restoration of civil rights.--With
289 respect to those persons convicted of a felony, the following

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290 procedure shall apply: Prior to the time an offender is
291 discharged from supervision, an authorized agent of the
292 department shall obtain from the Governor the necessary
293 application and other forms required for the restoration of civil
294 rights. The authorized agent shall assist the offender in
295 completing these forms and shall ensure that the application and
296 all necessary material are forwarded to the Governor before the
297 offender is discharged from supervision. The department may meet
298 its obligation to assist offenders in completing the application
299 for the restoration of civil rights by electronically providing
300 to the Parole Commission each month a list of offenders who were
301 released from incarceration or terminated from supervision during
302 the preceding month.

303 Section 7. Section 944.47, Florida Statutes, is amended to
304 read:

305 944.47 Introduction, removal, or possession of certain
306 articles unlawful; penalty.--

307 (1)(a) Except through regular channels as authorized by the
308 officer in charge of the correctional institution, it is unlawful
309 to introduce into or upon the grounds of any state correctional
310 institution, or to take or attempt to take or send or attempt to
311 send therefrom, any of the following articles which are hereby
312 declared to be contraband for the purposes of this section, to
313 wit:

314 1. Any written or recorded communication or any currency or
315 coin given or transmitted, or intended to be given or
316 transmitted, to any inmate of any state correctional institution.

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317 2. Any article of food or clothing given or transmitted, or
318 intended to be given or transmitted, to any inmate of any state
319 correctional institution.

320 3. Any intoxicating beverage or beverage which causes or
321 may cause an intoxicating effect.

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

325 5. Any firearm or weapon of any kind or any explosive
326 substance.

327 6. Any cellular telephone or other portable communication
328 device intentionally and unlawfully introduced inside the secure
329 perimeter of any state correctional institution without prior
330 authorization or consent from the officer in charge of such
331 correctional institution. As used in this subparagraph, the term
332 "portable communication device" means any device carried, worn,
333 or stored which is designed or intended to receive or transmit
334 verbal or written messages, access or store data, or connect
335 electronically to the Internet or any other electronic device,
336 and which allows communications in any form. Such devices
337 include, but are not limited to, portable two-way pagers, hand-
338 held radios, cellular telephones, Blackberry-type devices,
339 personal digital assistants or PDA's, laptop computers, or any
340 components of these devices which are intended to be used to
341 assemble such devices. The term also includes any new technology
342 that is developed for similar purposes. Excluded from this
343 definition is any device having communication capabilities which
344 has been approved or issued by the department for investigative

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345 or institutional security purposes or for conducting other state
346 business.

347 (b) It is unlawful to transmit or attempt to transmit to,
348 or cause or attempt to cause to be transmitted to or received by,
349 any inmate of any state correctional institution any article or
350 thing declared by this subsection to be contraband, at any place
351 which is outside the grounds of such institution, except through
352 regular channels as authorized by the officer in charge of such
353 correctional institution.

354 (c) It is unlawful for any inmate of any state correctional
355 institution or any person while upon the grounds of any state
356 correctional institution to be in actual or constructive
357 possession of any article or thing declared by this section to be
358 contraband, except as authorized by the officer in charge of such
359 correctional institution.

360 (2) A person who violates any provision of this section as
361 it pertains to an article of contraband described in subparagraph
362 (1)(a)1., ~~or~~ subparagraph (1)(a)2., or subparagraph (1)(a)6.
363 commits ~~is guilty of~~ a felony of the third degree, punishable as
364 provided in s. 775.082, s. 775.083, or s. 775.084. In all other
365 cases, a violation of a provision of this section constitutes a
366 felony of the second degree, punishable as provided in s.
367 775.082, s. 775.083, or s. 775.084.

368 Section 8. Subsections (1) and (5) of section 945.41,
369 Florida Statutes, are amended to read:

370 945.41 Legislative intent of ss. 945.40-945.49.--It is the
371 intent of the Legislature that mentally ill inmates in the
372 custody of the Department of Corrections receive evaluation and
373 appropriate treatment for their mental illness through a

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374 | continuum of services. It is further the intent of the
375 | Legislature that:

376 | (1) Inmates in the custody of the department who have
377 | mental illnesses that require hospitalization and intensive
378 | psychiatric inpatient treatment or care receive appropriate
379 | treatment or care in Department of Corrections mental health
380 | treatment facilities designated for that purpose. ~~The department~~
381 | ~~shall contract with the Department of Children and Family~~
382 | ~~Services for the provision of mental health services in any~~
383 | ~~departmental mental health treatment facility.~~ The Department of
384 | Corrections shall provide mental health services to inmates
385 | committed to it and may contract with any entities, persons, or
386 | agencies qualified to provide such services.

387 | (5) The department may designate a mental health treatment
388 | facility for adult, ~~and~~ youthful, and female offenders or may
389 | contract with other appropriate entities, persons, or agencies
390 | for such services.

391 | Section 9. Section 945.42, Florida Statutes, is amended to
392 | read:

393 | 945.42 Definitions; ss. 945.40-945.49.--As used in ss.
394 | 945.40-945.49, the following terms shall have the meanings
395 | ascribed to them, unless the context shall clearly indicate
396 | otherwise:

397 | (1) "Court" means the circuit court.

398 | (2) "Crisis stabilization care" means a level of care that
399 | is less restrictive and intense than care provided in a mental
400 | health treatment facility, that includes a broad range of
401 | evaluation and treatment services provided within a highly
402 | structured setting or locked residential setting, and that is

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403 intended for inmates who are experiencing acute emotional
404 distress and who cannot be adequately evaluated and treated in a
405 transitional care unit or infirmary isolation management room.
406 Such treatment is also more intense than treatment provided in a
407 transitional care unit and is devoted principally toward rapid
408 stabilization of acute symptoms and conditions.

409 (3) ~~(2)~~ "Department" means the Department of Corrections.

410 (4) ~~(3)~~ "Director" means the Director for Mental Health
411 Services of the Department of Corrections or his or her designee.

412 (5) ~~(4)~~ "In immediate need of care and treatment" means that
413 an inmate is apparently mentally ill and is not able to be
414 appropriately cared for in the institution where he or she ~~the~~
415 ~~inmate~~ is confined and that, but for being isolated in a more
416 restrictive and secure housing environment, because of the
417 apparent mental illness:

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

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

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

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

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

437 (6) (5) "In need of care and treatment" means that an inmate
438 has a mental illness for which inpatient services in a mental
439 health treatment facility are necessary and that, but for being
440 isolated in a more restrictive and secure housing environment,
441 because of the ~~which~~ mental illness:

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

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

451 (b)1. The inmate has refused voluntary placement for
452 treatment at a mental health treatment facility after sufficient
453 and conscientious explanation and disclosure of the purpose of
454 placement; or

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

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

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460 (7)~~(6)~~ "Inmate" means any person committed to the custody
461 of the Department of Corrections.

462 (8)~~(7)~~ "Mental health treatment facility" means ~~the~~
463 ~~Corrections Mental Health Institution and any~~ extended treatment
464 or hospitalization-level unit within the corrections system which
465 ~~either institution that~~ the Assistant Secretary for Health
466 Services of the department specifically designates by rule to
467 provide acute psychiatric care and which may include involuntary
468 treatment and therapeutic intervention ~~at the hospital level,~~ in
469 contrast to less intensive levels of care such as outpatient
470 mental health care, transitional mental health care, or crisis
471 stabilization care.

472 (9)~~(8)~~ "Mentally ill" means an impairment of the mental or
473 emotional processes, of the ability to exercise conscious control
474 of one's actions, or of the ability to perceive or understand
475 reality ~~or to understand~~, which impairment substantially
476 interferes with a person's ability to meet the ordinary demands
477 of living, regardless of etiology, except that, for the purposes
478 of transfer of an inmate to a mental health treatment facility,
479 the term does not include retardation or developmental disability
480 as defined in chapter 393, simple intoxication, or conditions
481 manifested only by antisocial behavior or substance abuse ~~drug~~
482 addiction. However, an individual who is mentally retarded or
483 developmentally disabled may also have a mental illness.

484 (10)~~(9)~~ "Psychiatrist" means a medical practitioner
485 licensed pursuant to chapter 458 or chapter 459 who has primarily
486 diagnosed and treated nervous and mental disorders for a period
487 of not less than 3 years inclusive of psychiatric residency.

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488 (11)~~(10)~~ "Psychological professional" "Psychologist" means
489 a behavioral practitioner who has an approved doctoral degree in
490 psychology as defined in s. 490.003(3)(b) and is employed by the
491 department that is primarily clinical in nature from a university
492 or professional graduate school that is state authorized or
493 accredited by an accrediting agency approved by the United States
494 Department of Education and who is professionally certified by
495 the appropriate professional psychology association or who is
496 licensed as a psychologist pursuant to chapter 490.

497 (12)~~(11)~~ "Secretary" means the Secretary of Corrections.

498 (13)~~(12)~~ "Transitional mental health care" means a level of
499 care that is more intensive than outpatient care, but less
500 intensive than crisis stabilization care, and is characterized by
501 the provision of traditional mental health treatments such as
502 group and individual therapy, activity therapy, recreational
503 therapy, and psychotropic medications ~~chemotherapy~~, in the
504 context of a structured residential setting. Transitional mental
505 health care is indicated for a person with chronic or residual
506 symptomatology who does not require crisis stabilization care or
507 acute psychiatric care ~~at the hospital level~~, but whose
508 impairment ~~impairments~~ in functioning nevertheless renders ~~render~~
509 him or her incapable of adjusting satisfactorily within the
510 general inmate population, ~~even with the assistance of outpatient~~
511 ~~care~~.

512 (14)~~(13)~~ "Warden" means the warden of a state corrections
513 facility or his or her designee.

514 Section 10. Section 945.43, Florida Statutes, is amended to
515 read:

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516 945.43 Admission of inmate to mental health treatment
517 facility.--

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

521 (2) PROCEDURE FOR PLACEMENT IN ~~ADMISSION TO~~ A MENTAL HEALTH
522 TREATMENT FACILITY.--

523 (a) An inmate may be admitted to a mental health treatment
524 facility after notice and hearing, upon the recommendation of the
525 warden of the facility where the inmate is confined ~~and of the~~
526 ~~director~~. The recommendation shall be entered on a petition
527 ~~certificate~~ and must be supported by the expert opinion of a
528 psychiatrist and the second opinion of a psychiatrist or
529 psychological professional ~~psychologist~~. The petition ~~certificate~~
530 shall be filed with the court in the county where the inmate is
531 located ~~and shall serve as a petition for a hearing regarding~~
532 ~~placement~~.

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

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

540 2. ~~A petition for such hearing, which requires only the~~
541 ~~signature of the inmate or the inmate's representative for~~
542 ~~completion.~~

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

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

549 (c) The petition for placement may be filed in the county
550 in which the inmate is located ~~being treated at any time within 6~~
551 ~~months of the date of the certificate~~. The hearing shall be held
552 in the same county, and one of the inmate's physicians at the
553 facility where the inmate is located shall appear as a witness at
554 the hearing.

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

558 (e) If the court finds that the inmate is mentally ill and
559 in need of care and treatment, as defined in s. 945.42(6), the
560 court ~~it~~ shall order that he or she be placed in ~~admitted to~~ a
561 mental health treatment facility or, if the inmate is at a mental
562 health treatment facility, that he or she be retained there.
563 ~~However, the inmate may be immediately transferred to and~~
564 ~~admitted at a mental health treatment facility by executing a~~
565 ~~waiver of the hearing by express and informed consent, without~~
566 ~~awaiting the court order~~. The court shall authorize the mental
567 health treatment facility to retain the inmate for up to 6
568 months. If, at the end of that time, continued placement
569 ~~treatment~~ is necessary, the warden shall apply to the Division of
570 Administrative Hearings in accordance with s. 945.45 ~~court~~ for an
571 order authorizing continued placement.

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

577 (a) The court shall serve notice on the warden of the
578 facility where the inmate is confined, ~~the director,~~ and the
579 allegedly mentally ill inmate. The notice must ~~shall~~ specify the
580 date, time, and place of the hearing; the basis for the
581 allegation of mental illness; and the names of the examining
582 experts. The hearing shall be held within 5 days, and the court
583 may appoint a general or special magistrate to preside. The court
584 may waive the presence of the inmate at the hearing if such
585 waiver is consistent with the best interests of the inmate and
586 the inmate's counsel does not object. The hearing may be as
587 informal as is consistent with orderly procedure. One of the
588 experts whose opinion supported the petition for placement
589 ~~recommendation~~ shall be present at the hearing for information
590 purposes.

591 (b) If, at the hearing, the court finds that the inmate is
592 mentally ill and in need of care and treatment, as defined in s.
593 945.42(6), the court ~~it~~ shall order that he or she be placed in
594 ~~transferred to~~ a mental health treatment facility ~~and provided~~
595 ~~appropriate treatment.~~ The court shall provide a copy of its
596 order authorizing placement ~~transfer~~ and all supporting
597 documentation relating to the inmate's condition to the warden of
598 the treatment facility. If the court finds that the inmate is not
599 mentally ill, it shall dismiss the petition for placement
600 ~~transfer.~~

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601 (4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL
602 ~~ALLOWED~~.--The warden of an institution in which a mental health
603 treatment facility is located may refuse to place ~~admit~~ any
604 inmate in that treatment facility who is not accompanied by
605 adequate court orders and documentation, as required in ss.
606 945.40-945.49.

607 Section 11. Section 945.44, Florida Statutes, is amended to
608 read:

609 945.44 Emergency placement ~~admission~~ of inmate in a ~~to~~
610 mental health treatment facility.--

611 (1) CRITERIA.--An inmate may be placed in a mental health
612 treatment facility on an emergency basis if he or she is mentally
613 ill and in immediate need of care and treatment, as defined in s.
614 945.42 (5).

615 (2) PROCEDURE FOR EMERGENCY PLACEMENT ADMISSION.--An inmate
616 who is mentally ill and in immediate need of care and treatment
617 that ~~which~~ cannot be provided at the institution where he or she
618 is confined may be placed in ~~admitted to~~ a mental health
619 treatment facility on an emergency basis. The inmate may be
620 placed ~~transferred~~ immediately in a mental health treatment ~~to~~
621 ~~the~~ facility and shall be accompanied by the recommendation of
622 the warden of the institution where the inmate is confined, which
623 recommendation must ~~shall~~ state the need for the emergency
624 placement ~~transfer~~ and ~~shall~~ include a written opinion of a
625 physician verifying the need for the emergency placement
626 ~~transfer~~. Upon the emergency placement ~~the admission~~ of the
627 inmate in ~~to~~ the facility, the inmate shall be evaluated; if he
628 or she is determined to be in need of treatment or care, the

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629 warden shall initiate proceedings for placement of the inmate, as
630 described in s. 945.43(2).

631 Section 12. Section 945.45, Florida Statutes, is amended to
632 read:

633 945.45 ~~Procedure for~~ continued placement of inmates in a
634 mental health treatment facility.--

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

638 (2)~~(1)~~ PROCEDURE FOR CONTINUED PLACEMENT OF AN INMATE IN A
639 MENTAL HEALTH TREATMENT FACILITY.--

640 (a) ~~If continued placement of an inmate is necessary,~~ The
641 warden shall, prior to the expiration of the period during which
642 the treatment facility is authorized to retain the inmate, file a
643 petition with the Division of Administrative Hearings for request
644 an order authorizing continued placement. The petition must ~~This~~
645 ~~request shall~~ be accompanied by a statement from the inmate's
646 physician justifying the petition request and providing a brief
647 summary of the inmate's treatment during the time he or she has
648 been placed. In addition, the warden shall submit an
649 individualized plan for the inmate for whom he or she is
650 requesting continued placement. The inmate may remain in a mental
651 health treatment facility pending a hearing after the timely
652 filing of the petition.

653 (b) Notification of this request for retention shall be
654 mailed to the inmate, ~~and the inmate's representative~~ along with
655 a waiver-of-hearing form and the completed petition, requesting
656 the inmate's ~~only a signature and a waiver-of-hearing form.~~ The
657 waiver-of-hearing form shall require express and informed consent

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658 and shall state that the inmate is entitled to an administrative
659 ~~a~~ hearing under the law; that the inmate is entitled to be
660 represented by an attorney at the hearing and that, if the inmate
661 cannot afford an attorney, one will be appointed; and that, if it
662 is shown at the hearing that the inmate does not meet the
663 criteria for continued placement, he or she will be transferred
664 out of the mental health treatment facility to another facility
665 ~~of the department~~. If the inmate ~~or the inmate's representative~~
666 does not sign the petition, or if the inmate does not sign a
667 waiver within 15 days, the administrative law judge shall notice
668 a hearing with regard to the inmate involved in accordance with
669 ss. 120.569 and 120.57(1).

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

672 (a) The hearing on a petition for the continued placement
673 of an inmate in a mental health treatment facility is an
674 administrative hearing and shall be conducted in accordance with
675 ss. 120.569 and 120.57(1), except that an order entered by the
676 administrative law judge is final and subject to judicial review
677 in accordance with s. 120.68. An administrative law judge shall
678 be assigned by the Division of Administrative Hearings to conduct
679 hearings for continued placement.

680 (b) The administrative law judge may waive the presence of
681 the inmate at the hearing if such waiver is consistent with the
682 best interests of the inmate and the inmate's counsel does not
683 object.

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

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687 the inmate be transferred out of the mental health treatment
688 facility ~~to another facility of the department.~~

689 ~~(d)(3)~~ If the inmate waives the hearing or if the
690 administrative law judge finds that the inmate is in need of
691 continued placement ~~treatment~~, the administrative law judge shall
692 enter an order authorizing such continued placement ~~treatment~~ for
693 a period not to exceed 1 year. The same procedure shall be
694 repeated prior to the expiration of each additional 1-year period
695 that the inmate is retained in the mental health treatment
696 facility.

697 ~~(4) Hearings on requests for orders authorizing continued~~
698 ~~placement filed in accordance with this section shall be~~
699 ~~conducted in accordance with the provisions of ss. 120.569 and~~
700 ~~120.57(1), except that any order entered by the administrative~~
701 ~~law judge shall be final and subject to judicial review in~~
702 ~~accordance with s. 120.68.~~

703 Section 13. Section 945.46, Florida Statutes, is amended to
704 read:

705 945.46 Initiation of involuntary placement proceedings with
706 respect to a mentally ill inmate scheduled for release.--

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

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

717 Section 14. Section 945.47, Florida Statutes, is amended to
718 read:

719 945.47 Discharge of inmate from mental health treatment.--

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

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

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

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

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

741 ~~(2) An inmate who is involuntarily placed pursuant to s.~~
742 ~~394.467 at the expiration of his or her sentence may be placed,~~

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743 ~~by order of the court, in a facility designated by the Department~~
744 ~~of Children and Family Services as a secure, nonforensic, civil~~
745 ~~facility. Such a placement shall be conditioned upon a finding by~~
746 ~~the court of clear and convincing evidence that the inmate is~~
747 ~~manifestly dangerous to himself or herself or others. The need~~
748 ~~for such placement shall be reviewed by facility staff every 90~~
749 ~~days. At any time that a patient is considered for transfer to a~~
750 ~~nonsecure, civil unit, the court which entered the order for~~
751 ~~involuntary placement shall be notified.~~

752 (2)~~(3)~~ At any time that an inmate who has received mental
753 health treatment while in the custody of the department becomes
754 eligible for release under supervision or upon end of sentence or
755 parole, a ~~complete~~ record of the inmate's mental health treatment
756 may ~~shall~~ be provided to the Parole Commission and to the
757 Department of Children and Family Services upon request. The
758 record shall include, at a minimum ~~least~~, a summary of the
759 inmate's diagnosis, length of stay in treatment, clinical
760 history, prognosis, prescribed medication, and treatment plan,
761 and recommendations for aftercare services. ~~In the event that the~~
762 ~~inmate is released on parole, the record shall be provided to the~~
763 ~~parole officer who shall assist the inmate in applying for~~
764 ~~services from a professional or an agency in the community. The~~
765 ~~application for treatment and continuation of treatment by the~~
766 ~~inmate may be made a condition of parole, as provided in s.~~
767 ~~947.19(1); and a failure to participate in prescribed treatment~~
768 ~~may be a basis for initiation of parole violation hearings.~~

769 Section 15. Section 945.48, Florida Statutes, is amended to
770 read:

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771 945.48 Rights of inmates ~~inmate~~ provided mental health
772 treatment; procedure for involuntary treatment.--

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

779 (2) RIGHT TO EXPRESS AND INFORMED CONSENT.--Any inmate
780 provided psychiatric treatment within the department shall be
781 asked to give his or her express and informed written consent for
782 such treatment. "Express and informed written consent" or
783 "consent" means consent voluntarily given in writing after a
784 conscientious and sufficient explanation and disclosure of the
785 purpose of the proposed treatment; the common side effects of the
786 treatment, if any; the expected duration of the treatment; and
787 the alternative treatment available. The explanation shall enable
788 the inmate to make a knowing and willful decision without any
789 element of fraud, deceit, or duress or any other form of
790 constraint or coercion.

791 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF
792 INMATES.--Involuntary mental health treatment of an inmate who
793 refuses treatment that is deemed to be necessary for the
794 appropriate care of the inmate and the safety of the inmate or
795 others may be provided at a mental health treatment facility. ~~an~~
796 ~~institution authorized to do so by the Assistant Secretary for~~
797 ~~Health Services under the following circumstances:~~

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

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800 ~~such treatment may be provided upon the written order of a~~
801 ~~physician for a period not to exceed 48 hours, excluding weekends~~
802 ~~and legal holidays. If, after the 48-hour period, the inmate has~~
803 ~~not given express and informed consent to the treatment initially~~
804 ~~refused, the warden shall, within 48 hours, excluding weekends~~
805 ~~and legal holidays, petition the circuit court serving the county~~
806 ~~in which the facility is located for an order authorizing the~~
807 ~~continued treatment of the inmate. In the interim, treatment may~~
808 ~~be continued upon the written order of a physician who has~~
809 ~~determined that the emergency situation continues to present a~~
810 ~~danger to the safety of the inmate or others. If an inmate must~~
811 ~~be isolated for mental health purposes, that decision must be~~
812 ~~reviewed within 72 hours by medical staff different from that~~
813 ~~making the original placement.~~

814 ~~(b) In a situation other than an emergency situation, the~~
815 ~~warden of the institution containing the mental health treatment~~
816 ~~facility shall petition the circuit court serving the county in~~
817 ~~which the mental health treatment facility is located for an~~
818 ~~order authorizing the treatment of the inmate. The inmate shall~~
819 ~~be provided with a copy of the petition along with the proposed~~
820 ~~treatment, the basis for the proposed treatment, the names of the~~
821 ~~examining experts, and the date, time, and location of the~~
822 ~~hearing. The inmate may have an attorney represent him or her at~~
823 ~~the hearing and, if the inmate is indigent, the court shall~~
824 ~~appoint the office of the public defender or private counsel~~
825 ~~pursuant to s. 27.40(1) to represent the inmate at the hearing.~~
826 An attorney representing the inmate shall have access to the
827 inmate and any records, including medical or mental health
828 records, which are relevant to the representation of the inmate.

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829 ~~The order shall allow such treatment for a period not to exceed~~
830 ~~90 days from the date of the order. Unless the court is notified~~
831 ~~in writing that the inmate has provided express and informed~~
832 ~~consent in writing, that the inmate has been transferred to~~
833 ~~another institution of the department, or that the inmate is no~~
834 ~~longer in need of treatment, the warden shall, prior to the~~
835 ~~expiration of the initial 90-day order, petition the court for an~~
836 ~~order authorizing the continuation of treatment for another 90-~~
837 ~~day period. This procedure shall be repeated until the inmate~~
838 ~~provides consent or is no longer in need of treatment. Treatment~~
839 ~~may be continued pending a hearing after the filing of any~~
840 ~~petition.~~

841 (4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF
842 AN INMATE.--

843 (a) The hearing on the petition for involuntary treatment
844 shall be held within 5 days after the petition is filed and the
845 court may appoint a general or special magistrate to preside. The
846 inmate may testify or not, as he or she chooses, may cross-
847 examine witnesses testifying on behalf of the facility, and may
848 present his or her own witnesses. However, the court may waive
849 the presence of the inmate at the hearing if such waiver is
850 consistent with the best interests of the inmate and the inmate's
851 counsel does not object. One of the inmate's physicians whose
852 opinion supported the petition shall appear as a witness at the
853 hearing.

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

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858 as defined in this chapter; whether such treatment is essential
859 to the care of the inmate; and whether the treatment is
860 experimental or presents an unreasonable risk of serious,
861 hazardous, or irreversible side effects. In arriving at the
862 substitute judgment decision, the court must consider at least
863 the following:

- 864 1. The inmate's expressed preference regarding treatment;
- 865 2. The probability of adverse side effects;
- 866 3. The prognosis for the inmate without treatment; and
- 867 4. The prognosis for the inmate with treatment.

868

869 ~~The inmate and the inmate's representative shall be provided with~~
870 ~~a copy of the petition and the date, time, and location of the~~
871 ~~hearing. The inmate may have an attorney represent him or her at~~
872 ~~the hearing, and, if the inmate is indigent, the court shall~~
873 ~~appoint the office of the public defender to represent him or her~~
874 ~~at the hearing. The inmate may testify or not, as he or she~~
875 ~~chooses, may cross-examine witnesses testifying on behalf of the~~
876 ~~facility, and may present his or her own witnesses.~~

877 (c) An order authorizing involuntary treatment shall allow
878 such treatment for a period not to exceed 90 days following the
879 date of the order. Unless the court is notified in writing that
880 the inmate has provided express and informed consent in writing,
881 that the inmate has been transferred to another institution of
882 the department, or that the inmate is no longer in need of
883 treatment, the warden shall, prior to the expiration of the
884 initial 90-day order, petition the court for an order authorizing
885 the continuation of treatment for another 90-day period. This
886 procedure shall be repeated until the inmate provides express and

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

890 (5) PROCEDURE FOR EMERGENCY TREATMENT.--In an emergency
891 situation in which there is immediate danger to the health and
892 safety of an inmate or other inmates, emergency treatment may be
893 provided at a mental health treatment facility upon the written
894 order of a physician for a period not to exceed 48 hours,
895 excluding weekends and legal holidays. If, after the 48-hour
896 period, the inmate has not given express and informed consent to
897 the treatment initially refused, the warden shall, within 48
898 hours, excluding weekends and legal holidays, petition the
899 circuit court, in accordance with the procedures described in
900 this section, for an order authorizing the continued treatment of
901 the inmate. In the interim, treatment may be continued upon the
902 written order of a physician who has determined that the
903 emergency situation continues to present a danger to the safety
904 of the inmate or others. If an inmate must be isolated for mental
905 health purposes, that decision must be reviewed within 72 hours
906 by a different psychological professional or a physician other
907 than the one making the original placement.

908 (6) ~~(d)~~ EMERGENCY TREATMENT.--In addition to the other above
909 provisions of this section for mental health treatment, when the
910 consent ~~permission~~ of the inmate cannot be obtained, the warden
911 of a mental health treatment facility, or his or her designated
912 representative, with the concurrence of the inmate's attending
913 physician, may authorize emergency surgical or nonpsychiatric
914 medical treatment if such treatment is deemed lifesaving or there
915 is a situation threatening serious bodily harm to the inmate.

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

922 Section 16. Section 945.49, Florida Statutes, is amended to
923 read:

924 945.49 Operation and administration.--

925 (1) ADMINISTRATION.--The department is authorized to
926 contract with the appropriate entities, agencies, persons, and
927 local governing bodies to provide mental health services pursuant
928 to ss. 945.40-945.49.

929 (2) RULES.--The department, in cooperation with the Mental
930 Health Program Office of the Department of Children and Family
931 Services, shall adopt rules necessary for administration of ss.
932 945.40-945.49 in accordance with chapter 120.

933 (3) ORIENTATION AND TRAINING.--Correctional officers
934 employed by a mental health treatment facility shall receive
935 specialized training above and beyond that required for basic
936 certification pursuant to chapter 943. ~~Such training shall be in~~
937 ~~accordance with requirements of the Criminal Justice Standards~~
938 ~~and Training Commission.~~

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

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945 ~~administrative law judges shall be assigned by the Division of~~
946 ~~Administrative Hearings to conduct hearings for continued~~
947 ~~placement.~~

948 Section 17. Paragraph (c) of subsection (3) of section
949 948.01, Florida Statutes, is amended to read:

950 948.01 When court may place defendant on probation or into
951 community control.--

952 (3) If, after considering the provisions of subsection (2)
953 and the offender's prior record or the seriousness of the
954 offense, it appears to the court in the case of a felony
955 disposition that probation is an unsuitable dispositional
956 alternative to imprisonment, the court may place the offender in
957 a community control program as provided in s. 948.10. Or, in a
958 case of prior disposition of a felony commitment, upon motion of
959 the offender or the department or upon its own motion, the court
960 may, within the period of its retained jurisdiction following
961 commitment, suspend the further execution of the disposition and
962 place the offender in a community control program upon such terms
963 as the court may require. The court may consult with a local
964 offender advisory council pursuant to s. 948.90 with respect to
965 the placement of an offender into community control. Not later
966 than 3 working days before the hearing on the motion, the
967 department shall forward to the court all relevant material on
968 the offender's progress while in custody. If this sentencing
969 alternative to incarceration is utilized, the court shall:

970 ~~(c) Require the department to provide notifications~~
971 ~~pursuant to s. 948.10(7).~~

972 Section 18. Section 948.10, Florida Statutes, is amended to
973 read:

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974 948.10 Community control programs.--

975 (1) The Department of Corrections shall develop and
976 administer a community control program. ~~Such community control~~
977 ~~program and required manuals shall be developed in consultation~~
978 ~~with the Florida Conference of Circuit Court Judges and the~~
979 ~~office of the State Courts Administrator.~~ This complementary
980 program shall be rigidly structured and designed to accommodate
981 offenders who, in the absence of such a program, would have been
982 incarcerated. The program shall focus on the provision of
983 sanctions and consequences which are commensurate with the
984 seriousness of the crime. The program shall offer the courts and
985 the Parole Commission an alternative, community-based method to
986 punish an offender in lieu of incarceration when the offender is
987 a member of one of the following target groups:

988 (a) Probation violators charged with technical violations
989 or misdemeanor violations.

990 (b) Parole violators charged with technical violations or
991 misdemeanor violations.

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

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

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

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

1000

1001 ~~Nothing in this subsection prohibits placement of certain inmates~~
1002 ~~on community control pursuant to s. 947.1747. For the purposes of~~

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1003 ~~this subsection, a forcible felony does not include manslaughter~~
1004 ~~or burglary.~~

1005 (2) ~~(3)~~ The department shall commit not less than 10 percent
1006 of the parole and probation field staff and supporting resources
1007 to the operation of the community control program. Caseloads
1008 should be restricted to a maximum of 25 cases per officer in
1009 order to ensure an adequate level of staffing. Community control
1010 is an individualized program in which the offender is restricted
1011 to noninstitutional quarters or restricted to his or her own
1012 residence subject to an authorized level of limited freedom.

1013 ~~(4) The department shall develop and implement procedures~~
1014 ~~to diagnose offenders during the prison intake process in order~~
1015 ~~to recommend to the sentencing courts, during the period of~~
1016 ~~retained jurisdiction, suitable candidates for placement in a~~
1017 ~~program of community control.~~

1018 ~~(5) The Department of Corrections shall develop, or shall~~
1019 ~~contract for the development of, an implementation manual, a~~
1020 ~~resource directory, and training programs for implementing~~
1021 ~~community control programs.~~

1022 ~~(a)1. The community control implementation manual shall~~
1023 ~~include, but shall not be limited to, an explanation of the types~~
1024 ~~of offenders who should be placed in community control programs,~~
1025 ~~procedures for diagnosing offenders, objectives and goals of such~~
1026 ~~placements, examples of alternative placements based upon the~~
1027 ~~experience of other states, and instruction in developing an~~
1028 ~~individualized program for each offender.~~

1029 ~~2. An offender's individualized program shall include~~
1030 ~~diagnosis of treatment needs in the areas of education, substance~~
1031 ~~abuse, and mental health, as well as community sanction~~

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1032 ~~provisions, restitution and community service provisions,~~
1033 ~~rehabilitation objectives and programs, and a schedule for~~
1034 ~~periodic review and reevaluation of such individualized programs.~~
1035 ~~Individualized programs for offenders who committed controlled~~
1036 ~~substance violations shall include provision for the conduct of~~
1037 ~~random substance abuse testing intermittently throughout the term~~
1038 ~~of supervision, upon the direction of the correctional probation~~
1039 ~~officer as defined in s. 943.10(3).~~

1040 ~~(b) The community control resource directory shall include,~~
1041 ~~but shall not be limited to, for each circuit in the state, an~~
1042 ~~identification and description of community resources that are~~
1043 ~~available for the implementation of community control programs,~~
1044 ~~which resources include the following:~~

1045 ~~1. The name, address, phone, county location, capacity, and~~
1046 ~~cost.~~

1047 ~~2. Client eligibility and characteristics which prohibit~~
1048 ~~acceptance.~~

1049 ~~3. The objectives of the program.~~

1050 ~~4. The primary source of referrals.~~

1051 ~~5. The average length of stay.~~

1052 ~~6. The services offered.~~

1053 ~~(c) Training programs shall be provided for correctional~~
1054 ~~field staff, local offender advisory councils, and others~~
1055 ~~responsible for the implementation of community control programs.~~

1056 ~~(6) The Florida Court Education Council and the office of~~
1057 ~~the State Courts Administrator shall coordinate the development~~
1058 ~~and implementation of a reference manual, directory, and training~~
1059 ~~programs for judges in relation to community control disposition.~~

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1060 ~~(7) Upon written request, when an offender is placed on~~
1061 ~~community control, the department shall notify:~~

1062 ~~(a) The original arresting law enforcement agency.~~

1063 ~~(b) The sheriff or chief law enforcement officer of the~~
1064 ~~county in which the offender is to be placed.~~

1065 ~~(c) The chief officer of any local law enforcement agency~~
1066 ~~within whose jurisdiction the offender is to be placed.~~

1067 ~~(d) The victim of the offense, the victim's parent or~~
1068 ~~guardian if the victim is a minor, the lawful representative of~~
1069 ~~the victim or the victim's parent or guardian if the victim is a~~
1070 ~~minor, or the next of kin if the victim is a homicide victim.~~

1071
1072 ~~Such notification shall include the name and street address of~~
1073 ~~the offender, the length of supervision, and the nature of the~~
1074 ~~offense. Update notification must be provided with respect to~~
1075 ~~violation of the terms or conditions of the placement.~~

1076 ~~(8) If an offender is sentenced to community control by the~~
1077 ~~court and the offender is ineligible to be placed on community~~
1078 ~~control as provided in subsection (2), the department shall:~~

1079 ~~(a) Review and verify whether an ineligible offender was~~
1080 ~~placed on community control.~~

1081 ~~(b) Within 30 days after receipt of the order, notify the~~
1082 ~~sentencing judge, the state attorney, and the Attorney General~~
1083 ~~that the offender was ineligible for placement on community~~
1084 ~~control.~~

1085 ~~(c) Provide a quarterly report to the chief judge and the~~
1086 ~~state attorney of each circuit citing the number of ineligible~~
1087 ~~offenders placed on community control within that circuit.~~

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1088 ~~(d) Provide an annual report to the Governor, the President~~
1089 ~~of the Senate, the Speaker of the House of Representatives, and~~
1090 ~~the Chief Justice of the Supreme Court on the placement of~~
1091 ~~ineligible offenders on community control in order to assist in~~
1092 ~~preparing judicial education programs or for any other purpose.~~

1093 (3)~~(9)~~ Procedures governing violations of community control
1094 shall be the same as those described in s. 948.06 with respect to
1095 probation.

1096 (4)~~(10)~~ Upon completion of the sanctions imposed in the
1097 community control plan before the expiration of the term ordered
1098 by the court, the department may petition the court to discharge
1099 the offender from community control supervision or to return the
1100 offender to a program of regular probation supervision. In
1101 considering the petition, the court should recognize the limited
1102 staff resources committed to the community control program, the
1103 purpose of the program, and the offender's successful compliance
1104 with the conditions set forth in the order of the court.

1105 ~~(11) The Department of Corrections shall:~~

1106 ~~(a) Develop and maintain a weighted statewide caseload~~
1107 ~~equalization strategy designed to ensure that high-risk offenders~~
1108 ~~receive the highest level of supervision; and~~

1109 ~~(b) Develop and implement a supervision risk assessment~~
1110 ~~instrument for the community control population which is similar~~
1111 ~~to the probation risk assessment instrument established by the~~
1112 ~~National Institute of Justice.~~

1113 (5)~~(12)~~ In its annual report to the Governor, the President
1114 of the Senate, and the Speaker of the House of Representatives
1115 under s. 20.315(5), the department shall include a detailed
1116 analysis of the community control program and the department's

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1117 specific efforts to protect the public from offenders placed on
1118 community control. The analysis must include, but need not be
1119 limited to, specific information on the department's ability to
1120 meet minimum officer-to-offender contact standards, the number of
1121 crimes committed by offenders on community control, and the level
1122 of community supervision provided.

1123 Section 19. Subsections (1) and (2) of section 958.04,
1124 Florida Statutes, are amended to read:

1125 958.04 Judicial disposition of youthful offenders.--

1126 (1) The court may sentence as a youthful offender any
1127 person:

1128 (a) Who is at least 18 years of age or who has been
1129 transferred for prosecution to the criminal division of the
1130 circuit court pursuant to chapter 985;

1131 (b) Who is found guilty of or who has tendered, and the
1132 court has accepted, a plea of nolo contendere or guilty to a
1133 crime that ~~which~~ is, under the laws of this state, a felony if
1134 the offender is younger than 21 years of age at the time sentence
1135 is imposed ~~such crime was committed before the defendant's 21st~~
1136 ~~birthday~~; and

1137 (c) Who has not previously been classified as a youthful
1138 offender under the provisions of this act; however, a ~~no~~ person
1139 who has been found guilty of a capital or life felony may not be
1140 sentenced as a youthful offender under this act.

1141 (2) In lieu of other criminal penalties authorized by law
1142 and notwithstanding any imposition of consecutive sentences, the
1143 court shall dispose of the criminal case as follows:

1144 (a) The court may place a youthful offender under
1145 supervision on probation or in a community control program, with

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1146 or without an adjudication of guilt, under such conditions as the
1147 court may lawfully impose for a period of not more than 6 years.
1148 Such period of supervision may ~~shall~~ not exceed the maximum
1149 sentence for the offense for which the youthful offender was
1150 found guilty.

1151 (b) The court may impose a period of incarceration as a
1152 condition of probation or community control, which period of
1153 incarceration shall be served in ~~either~~ a county facility, a
1154 department probation and restitution center, or a community
1155 residential facility that ~~which~~ is owned and operated by any
1156 public or private entity providing such services. A ~~No~~ youthful
1157 offender may not be required to serve a period of incarceration
1158 in a community correctional center as defined in s. 944.026.
1159 Admission to a department facility or center shall be contingent
1160 upon the availability of bed space and shall take into account
1161 the purpose and function of such facility or center. Placement in
1162 such a facility or center may ~~shall~~ not exceed 364 days.

1163 (c) The court may impose a split sentence whereby the
1164 youthful offender is to be placed on probation or community
1165 control upon completion of any specified period of incarceration;
1166 however, if the incarceration period is to be served in a
1167 department facility other than a probation and restitution center
1168 or community residential facility, such period shall be for not
1169 less than 1 year or more than 4 years. The period of probation or
1170 community control shall commence immediately upon the release of
1171 the youthful offender from incarceration. The period of
1172 incarceration imposed or served and the period of probation or
1173 community control, when added together, may ~~shall~~ not exceed 6
1174 years.

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1175 (d) The court may commit the youthful offender to the
1176 custody of the department for a period of not more than 6 years,
1177 provided that any such commitment may ~~shall~~ not exceed the
1178 maximum sentence for the offense for which the youthful offender
1179 has been convicted. Successful participation in the youthful
1180 offender program by an offender who is sentenced as a youthful
1181 offender by the court pursuant to this section, or is classified
1182 as such by the department, may result in a recommendation to the
1183 court, by the department, for a modification or early termination
1184 of probation, community control, or the sentence at any time
1185 prior to the scheduled expiration of such term. The department
1186 shall adopt rules defining criteria for successful participation
1187 in the youthful offender program which shall include program
1188 participation, academic and vocational training, and satisfactory
1189 adjustment. When a modification of the sentence results in the
1190 reduction of a term of incarceration, the court may impose a term
1191 of probation or community control which, when added to the term
1192 of incarceration, may ~~shall~~ not exceed the original sentence
1193 imposed.

1194 Section 20. Section 958.11, Florida Statutes, is amended to
1195 read:

1196 958.11 Designation of institutions and programs for
1197 youthful offenders; assignment from youthful offender
1198 institutions and programs.--

1199 (1) The department shall by rule designate separate
1200 institutions and programs for youthful offenders and shall employ
1201 and utilize personnel specially qualified by training and
1202 experience to operate all such institutions and programs for
1203 youthful offenders. Youthful offenders who are at least 14 years

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1204 of age but who have not yet reached the age of 19 years at the
1205 time of reception shall be separated from youthful offenders who
1206 are 19 years of age or older, except that if the population of
1207 the facilities designated for 14-year-old to 18-year-old youthful
1208 offenders exceeds 100 percent of lawful capacity, the department
1209 may assign 18-year-old youthful offenders to the 19-24 age group
1210 facility.

1211 (2) Youthful offender institutions and programs shall
1212 contain only those youthful offenders sentenced as such by a
1213 court or classified as such by the department, pursuant to the
1214 requirements of subsections (4) and (6), except that under
1215 special circumstances select adult offenders may be assigned to
1216 youthful offender institutions. Female youthful offenders of all
1217 ages may continue to be housed together at those institutions
1218 designated by department rule ~~Florida Correctional Institution~~
1219 ~~and Broward Correctional Institution~~ until such time as
1220 institutions for a female youthful offenders are offender
1221 institution is established or adapted to allow for separation by
1222 age and to accommodate all custody classifications.

1223 (3) The department may assign a youthful offender to a
1224 facility in the state correctional system which is not designated
1225 for the care, custody, control, and supervision of youthful
1226 offenders or an age group only in the following circumstances:

1227 (a) If the youthful offender is convicted of a new crime
1228 which is a felony under the laws of this state.

1229 (b) If the youthful offender becomes such a serious
1230 management or disciplinary problem resulting from serious
1231 violations of the rules of the department that his or her

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1232 original assignment would be detrimental to the interests of the
1233 program and to other inmates committed thereto.

1234 (c) If the youthful offender needs medical treatment,
1235 health services, or other specialized treatment otherwise not
1236 available at the youthful offender facility.

1237 (d) If the department determines that the youthful offender
1238 should be transferred outside of the state correctional system,
1239 as provided by law, for services not provided by the department.

1240 (e) If bed space is not available in a designated community
1241 residential facility, the department may assign a youthful
1242 offender to a community residential facility, provided that the
1243 youthful offender is separated from other offenders insofar as is
1244 practical.

1245 (f) If the youthful offender was originally assigned to a
1246 facility designated for 14-year-old to 18-year-old youthful
1247 offenders, but subsequently reaches the age of 19 years, the
1248 department may retain the youthful offender in the facility if
1249 the department determines that it is in the best interest of the
1250 youthful offender and the department.

1251 (g) If the department determines that a youthful offender
1252 originally assigned to a facility designated for the 19-24 age
1253 group is mentally or physically vulnerable by such placement, the
1254 department may reassign a youthful offender to a facility
1255 designated for the 14-18 age group if the department determines
1256 that a reassignment is necessary to protect the safety of the
1257 youthful offender or the institution.

1258 (h) If the department determines that a youthful offender
1259 originally assigned to a facility designated for the 14-18 age
1260 group is disruptive, incorrigible, or uncontrollable, the

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1261 department may reassign a youthful offender to a facility
1262 designated for the 19-24 age group if the department determines
1263 that a reassignment would best serve the interests of the
1264 youthful offender and the department.

1265 (4) The department ~~Office of the Assistant Secretary for~~
1266 ~~Youthful Offenders~~ shall continuously screen all institutions,
1267 facilities, and programs for any inmate who meets the eligibility
1268 requirements for youthful offender designation specified in s.
1269 958.04(1)(a) and (c) whose age does not exceed 24 years and whose
1270 total length of sentence does not exceed 10 years, and the
1271 department may classify and assign as a youthful offender any
1272 inmate who meets the criteria of this subsection.

1273 (5) The department ~~Population Movement and Control~~
1274 ~~Coordinator~~ shall coordinate all youthful offender assignments or
1275 transfers and shall ~~consult with the Office of the Assistant~~
1276 ~~Secretary for Youthful Offenders. The Office of the Assistant~~
1277 ~~Secretary for Youthful Offenders shall~~ review and maintain access
1278 to full and complete documentation and substantiation of all such
1279 assignments or transfers of youthful offenders to or from
1280 facilities in the state correctional system which are not
1281 designated for their care, custody, and control, except
1282 assignments or transfers made pursuant to paragraph (3)(c).

1283 (6) The department may assign to a youthful offender
1284 facility any inmate, except a capital or life felon, whose age
1285 does not exceed 19 years but who does not otherwise meet the
1286 criteria of this section, if the department ~~Assistant Secretary~~
1287 ~~for Youthful Offenders~~ determines that such inmate's mental or
1288 physical vulnerability would substantially or materially
1289 jeopardize his or her safety in a nonyouthful offender facility.

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1290 Assignments made under this subsection shall be included in the
1291 department's annual report.

1292 Section 21. Section 958.12, Florida Statutes, is amended to
1293 read:

1294 958.12 Participation in certain activities required.--

1295 (1) A youthful offender shall be required to participate in
1296 work assignments, and in career, academic, counseling, and other
1297 rehabilitative programs in accordance with this section,
1298 including, but not limited to:

1299 (a) All youthful offenders may be required, as appropriate,
1300 to participate in:

- 1301 1. Reception and orientation.
- 1302 2. Evaluation, needs assessment, and classification.
- 1303 3. Educational programs.
- 1304 4. Career and job training.
- 1305 5. Life and socialization skills training, including
1306 anger/aggression control.
- 1307 6. Prerelease orientation and planning.
- 1308 7. Appropriate transition services.

1309 (b) In addition to the requirements in paragraph (a), the
1310 department shall make available:

- 1311 1. Religious services and counseling.
- 1312 2. Social services.
- 1313 3. Substance abuse treatment and counseling.
- 1314 4. Psychological and psychiatric services.
- 1315 5. Library services.
- 1316 6. Medical and dental health care.
- 1317 7. Athletic, recreational, and leisure time activities.
- 1318 8. Mail and visiting privileges.

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1319
1320 Income derived by a youthful offender from participation in such
1321 activities may be used, in part, to defray a portion of the costs
1322 of his or her incarceration or supervision; to satisfy
1323 preexisting obligations; to pay fines, counseling fees, or other
1324 costs lawfully imposed; or to pay restitution to the victim of
1325 the crime for which the youthful offender has been convicted in
1326 an amount determined by the sentencing court. Any such income not
1327 used for such reasons or not used as provided in s. 946.513 or s.
1328 958.09 shall be placed in a bank account for use by the youthful
1329 offender upon his or her release.

1330 (2) A comprehensive transition and postrelease plan shall
1331 be developed for the youthful offender by a team consisting of a
1332 transition assistance officer, a classification officer, an
1333 educational representative, a health services administrator, a
1334 probation and parole officer, and the youthful offender.

1335 ~~(3) A youthful offender shall be visited by a probation and~~
1336 ~~parole officer prior to the offender's release from incarceration~~
1337 ~~in order to assist in the youthful offender's transition.~~

1338 (3)~~(4)~~ Community partnerships shall be developed by the
1339 department to provide postrelease community resources. The
1340 department shall develop partnerships with entities that ~~which~~
1341 include, but are not limited to, state agencies ~~the Department of~~
1342 ~~Labor and Employment Security, the Department of Children and~~
1343 ~~Family Services~~, community health agencies, private agencies, and
1344 school systems.

1345 (4)~~(5)~~ If supervision of the youthful offender after
1346 release from incarceration is required, this ~~and~~ may be
1347 accomplished in a residential or nonresidential program or~~r~~

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1348 | intensive day treatment, or through supervision by a correctional
1349 | probation ~~and parole~~ officer.

1350 | Section 22. This act shall take effect October 1, 2008.