

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

590-06976-08

20081614c3

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 certain inmates younger than 18 years
24 of age to a facility for youthful offenders until the
25 inmate reaches a specified age; deleting provisions
26 requiring that certain offenders younger than 18 years of
27 age be housed and provided certain services separately
28 from older offenders or placed in a facility for youthful
29 offenders; amending s. 944.293, F.S.; specifying that the

590-06976-08

20081614c3

30 Department of Corrections meets its statutory obligation
31 to assist released offenders with completing the
32 application for the restoration of civil rights by sending
33 an electronic list to the Parole Commission each month of
34 those inmates and offenders who were released from
35 incarceration or terminated from supervision during the
36 preceding month; amending s. 944.47, F.S.; providing that
37 a cellular telephone or other portable communication
38 device that is introduced inside the secure perimeter of a
39 state correctional institution without prior authorization
40 is contraband; prohibiting an inmate or other person upon
41 the grounds of the institution from possessing such
42 contraband without authorization; providing a definition;
43 providing criminal penalties; amending s. 945.41, F.S.;

44 eliminating a requirement that the Department of
45 Corrections contract with the Department of Children and
46 Family Services to provide certain mental health services;
47 authorizing the Department of Corrections to contract with
48 other entities or persons to provide mental health
49 services to inmates; amending s. 945.42, F.S.; revising
50 definitions and defining the term "crisis stabilization
51 care"; amending s. 945.43, F.S.; revising the procedures
52 for placing an inmate in a mental health treatment
53 facility; authorizing the court to waive the presence of
54 the inmate at the hearing on the inmate's placement;
55 amending s. 945.44, F.S.; providing for the emergency
56 placement of an inmate in a mental health treatment
57 facility; amending s. 945.45, F.S.; revising the
58 provisions governing the continued placement of an inmate

590-06976-08

20081614c3

59 | in a mental health treatment facility; authorizing
60 | administrative law judges to appoint private pro bono
61 | attorneys to represent inmates in continued placement
62 | hearings; providing that the administrative law judge may
63 | waive the presence of the inmate at the hearing under
64 | certain conditions; amending s. 945.46, F.S.; authorizing
65 | the warden to initiate procedures for the involuntary
66 | examination of an inmate who has a mental illness and
67 | meets certain criteria; amending s. 945.47, F.S.;
68 | providing for the transfer of an inmate who is no longer
69 | in need of mental health treatment; deleting certain
70 | provisions governing involuntary placement; requiring that
71 | a summary of the inmate's treatment be provided to the
72 | Parole Commission and the Department of Children and
73 | Family Services upon request; amending s. 945.48, F.S.;
74 | revising the procedure for the involuntary mental health
75 | treatment of an inmate; providing for the warden of the
76 | institution containing the mental health treatment
77 | facility to petition the circuit court for an order
78 | authorizing involuntary treatment; providing requirements
79 | for the hearing on involuntary treatment; limiting the
80 | period that an order authorizing involuntary treatment is
81 | effective; providing a procedure for emergency treatment;
82 | amending s. 945.49, F.S.; deleting a provision requiring
83 | that training provided to correctional officers employed
84 | by a mental health treatment facility be in accordance
85 | with the requirements of the Criminal Justice Standards
86 | and Training Commission; amending s. 948.01, F.S.;
87 | deleting certain provisions limiting circumstances under

590-06976-08

20081614c3

88 | which an offender may be placed in community control;
89 | amending s. 948.10, F.S.; deleting a requirement that
90 | community control programs and manuals be developed in
91 | consultation with the Florida Conference of Circuit Court
92 | Judges and the State Courts Administrator; deleting
93 | requirements for the department in developing and
94 | implementing community control programs, resource
95 | directories, and training programs; deleting a requirement
96 | for the Florida Court Education Council and the State
97 | Courts Administrator to coordinate certain resources for
98 | judges pertaining to community control; eliminating
99 | provisions governing review and notice by the department
100 | of offenders ineligible for community control and
101 | requiring the department to develop a caseload
102 | equalization strategy; amending s. 958.04, F.S.;
103 | authorizing the court to sentence a person as a youthful
104 | offender if the offender is younger than 21 years of age
105 | at the time sentence is imposed; requiring the Department
106 | of Corrections to adopt by rule criteria to define
107 | successful participation in the youthful offender program;
108 | amending s. 958.11, F.S.; removing the specific
109 | designation of youthful offender facilities for housing
110 | female offenders; revising requirements for the department
111 | with respect to assigning or transferring youthful
112 | offenders; removing references to the Assistant Secretary
113 | for Youthful Offenders; amending s. 958.12, F.S.; removing
114 | the requirement for a youthful offender to be visited by a
115 | probation and parole officer before release; removing the
116 | requirement for the department to develop community

590-06976-08

20081614c3

117 partnerships with the Department of Labor and Employment
118 Security and the Department of Children and Family
119 Services; providing an effective date.

120
121 Be It Enacted by the Legislature of the State of Florida:
122

123 Section 1. Paragraph (b) of subsection (1) of section
124 120.57, Florida Statutes, is amended to read:

125 120.57 Additional procedures for particular cases.--

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

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

142 Section 2. Subsections (2), (3), and (4) of section
143 921.187, Florida Statutes, are amended to read:

144 921.187 Disposition and sentencing; alternatives;
145 restitution.--

590-06976-08

20081614c3

146 ~~(2) An offender may not be placed in community control if:~~
147 ~~(a) Convicted of or adjudication is withheld for a forcible~~
148 ~~felony as defined in s. 776.08; and~~
149 ~~(b) Previously convicted of or adjudication was withheld~~
150 ~~for a forcible felony as defined in s. 776.08.~~

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

156 (2)~~(3)~~ In addition to any other penalty provided by law for
157 an offense enumerated in s. 775.0877(1)(a)-(n), if the offender
158 is convicted of criminal transmission of HIV pursuant to s.
159 775.0877, the court may sentence the offender to criminal
160 quarantine community control as described in s. 948.001.

161 (3)~~(4)~~ The court shall require an offender to make
162 restitution under s. 775.089, unless the court finds clear and
163 compelling reasons not to order such restitution. If the court
164 does not order restitution, or orders restitution of only a
165 portion of the damages, as provided in s. 775.089, the court
166 shall state the reasons on the record in detail. An order
167 requiring an offender to make restitution to a victim under s.
168 775.089 does not remove or diminish the requirement that the
169 court order payment to the Crimes Compensation Trust Fund under
170 chapter 960.

171 Section 3. Section 940.061, Florida Statutes, is amended to
172 read:

173 940.061 Informing persons about executive clemency and
174 restoration of civil rights.--The Department of Corrections shall

590-06976-08

20081614c3

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

185 Section 4. Section 943.16, Florida Statutes, is amended to
186 read:

187 943.16 Payment of tuition or officer certification
188 examination fee by employing agency; reimbursement of tuition,
189 other course expenses, wages, and benefits.--

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

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

202 ~~(b) In addition to reimbursement for the full cost of~~
203 ~~tuition and other course expenses, a trainee terminating~~

590-06976-08

20081614c3

204 ~~employment as provided in paragraph (a) shall reimburse the~~
205 ~~employing agency for the trainee's wages and benefits paid by the~~
206 ~~employing agency during the academy training period according to~~
207 ~~the following schedule:~~

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

212 ~~2. For a trainee terminating employment within 6 months and~~
213 ~~1 day to 12 months of graduation from the basic recruit training~~
214 ~~program, an amount equal to three-fourths of the full amount of~~
215 ~~wages and benefits paid during the academy training period.~~

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

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

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

228 (4) An employing agency may institute a civil action to
229 collect such cost of tuition and, other course expenses, ~~wages,~~
230 ~~and benefits~~ as provided in this section if it is not reimbursed,
231 provided that the employing agency gave written notification to
232 the trainee of the 2-year employment commitment during the

590-06976-08

20081614c3

233 employment screening process. The trainee shall return signed
234 acknowledgment of receipt of such notification.

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

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

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

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

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

260 (5) (a) Notwithstanding any other provision of this section
261 or chapter 958, the department shall assign to facilities housing

590-06976-08

20081614c3

262 youthful offenders ~~specific correctional facilities~~ all inmates
263 who are less than 18 years of age and who ~~are not eligible for~~
264 ~~and~~ have not been assigned to a facility for youthful offenders
265 under the provisions of chapter 958. Such an inmate shall be
266 assigned to a facility for youthful offenders until the inmate is
267 18 years of age; however, the department may assign the inmate to
268 a facility for youthful offenders until the inmate reaches an age
269 not to exceed 21 years if the department determines that the
270 continued assignment is in the best interests of the inmate and
271 the assignment does not pose an unreasonable risk to other
272 inmates in the facility. Any such inmate who is less than 18
273 years of age shall be housed in a dormitory that is separate from
274 inmates who are 18 years of age or older. Furthermore, the
275 department shall provide any food service, education, and
276 recreation for such inmate separately from inmates who are 18
277 years of age or older.

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

286 (b)(e) Any inmate who is assigned to a facility under
287 paragraph (a) is subject to the provisions of s. 958.11 regarding
288 facility assignments, and ~~or paragraph (b)~~ shall be removed and
289 reassigned to the general inmate population if his or her

590-06976-08

20081614c3

290 | behavior threatens the safety of other inmates or correctional
291 | staff.

292 | Section 6. Section 944.293, Florida Statutes, is amended to
293 | read:

294 | 944.293 Initiation of restoration of civil rights.--With
295 | respect to those persons convicted of a felony, the following
296 | procedure shall apply: Prior to the time an offender is
297 | discharged from supervision, an authorized agent of the
298 | department shall obtain from the Governor the necessary
299 | application and other forms required for the restoration of civil
300 | rights. The authorized agent shall assist the offender in
301 | completing these forms and shall ensure that the application and
302 | all necessary material are forwarded to the Governor before the
303 | offender is discharged from supervision. The department may meet
304 | its obligation to assist offenders in completing the application
305 | for the restoration of civil rights by electronically providing
306 | to the Parole Commission each month a list of offenders who were
307 | released from incarceration or terminated from supervision during
308 | the preceding month.

309 | Section 7. Section 944.47, Florida Statutes, is amended to
310 | read:

311 | 944.47 Introduction, removal, or possession of certain
312 | articles unlawful; penalty.--

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

590-06976-08

20081614c3

318 | declared to be contraband for the purposes of this section, to
319 | wit:

320 | 1. Any written or recorded communication or any currency or
321 | coin given or transmitted, or intended to be given or
322 | transmitted, to any inmate of any state correctional institution.

323 | 2. Any article of food or clothing given or transmitted, or
324 | intended to be given or transmitted, to any inmate of any state
325 | correctional institution.

326 | 3. Any intoxicating beverage or beverage which causes or
327 | may cause an intoxicating effect.

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

331 | 5. Any firearm or weapon of any kind or any explosive
332 | substance.

333 | 6. Any cellular telephone or other portable communication
334 | device intentionally and unlawfully introduced inside the secure
335 | perimeter of any state correctional institution without prior
336 | authorization or consent from the officer in charge of such
337 | correctional institution. As used in this subparagraph, the term
338 | "portable communication device" means any device carried, worn,
339 | or stored which is designed or intended to receive or transmit
340 | verbal or written messages, access or store data, or connect
341 | electronically to the Internet or any other electronic device,
342 | and which allows communications in any form. Such devices
343 | include, but are not limited to, portable two-way pagers, hand-
344 | held radios, cellular telephones, Blackberry-type devices,
345 | personal digital assistants or PDA's, laptop computers, or any
346 | components of these devices which are intended to be used to

590-06976-08

20081614c3

347 assemble such devices. The term also includes any new technology
348 that is developed for similar purposes. Excluded from this
349 definition is any device having communication capabilities which
350 has been approved or issued by the department for investigative
351 or institutional security purposes or for conducting other state
352 business.

353 (b) It is unlawful to transmit or attempt to transmit to,
354 or cause or attempt to cause to be transmitted to or received by,
355 any inmate of any state correctional institution any article or
356 thing declared by this subsection to be contraband, at any place
357 which is outside the grounds of such institution, except through
358 regular channels as authorized by the officer in charge of such
359 correctional institution.

360 (c) It is unlawful for any inmate of any state correctional
361 institution or any person while upon the grounds of any state
362 correctional institution to be in actual or constructive
363 possession of any article or thing declared by this section to be
364 contraband, except as authorized by the officer in charge of such
365 correctional institution.

366 (2) A person who violates any provision of this section as
367 it pertains to an article of contraband described in subparagraph
368 (1)(a)1., ~~or~~ subparagraph (1)(a)2., or subparagraph (1)(a)6.
369 commits ~~is guilty of~~ a felony of the third degree, punishable as
370 provided in s. 775.082, s. 775.083, or s. 775.084. In all other
371 cases, a violation of a provision of this section constitutes a
372 felony of the second degree, punishable as provided in s.
373 775.082, s. 775.083, or s. 775.084.

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

590-06976-08

20081614c3

376 945.41 Legislative intent of ss. 945.40-945.49.--It is the
377 intent of the Legislature that mentally ill inmates in the
378 custody of the Department of Corrections receive evaluation and
379 appropriate treatment for their mental illness through a
380 continuum of services. It is further the intent of the
381 Legislature that:

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

393 (5) The department may designate a mental health treatment
394 facility for adult, and youthful, and female offenders or may
395 contract with other appropriate entities, persons, or agencies
396 for such services.

397 Section 9. Section 945.42, Florida Statutes, is amended to
398 read:

399 945.42 Definitions; ss. 945.40-945.49.--As used in ss.
400 945.40-945.49, the following terms shall have the meanings
401 ascribed to them, unless the context shall clearly indicate
402 otherwise:

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

590-06976-08

20081614c3

404 (2) "Crisis stabilization care" means a level of care that
405 is less restrictive and intense than care provided in a mental
406 health treatment facility, that includes a broad range of
407 evaluation and treatment services provided within a highly
408 structured setting or locked residential setting, and that is
409 intended for inmates who are experiencing acute emotional
410 distress and who cannot be adequately evaluated and treated in a
411 transitional care unit or infirmary isolation management room.
412 Such treatment is also more intense than treatment provided in a
413 transitional care unit and is devoted principally toward rapid
414 stabilization of acute symptoms and conditions.

415 (3)~~(2)~~ "Department" means the Department of Corrections.

416 (4)~~(3)~~ "Director" means the Director for Mental Health
417 Services of the Department of Corrections or his or her designee.

418 (5)~~(4)~~ "In immediate need of care and treatment" means that
419 an inmate is apparently mentally ill and is not able to be
420 appropriately cared for in the institution where he or she ~~the~~
421 ~~inmate~~ is confined and that, but for being isolated in a more
422 restrictive and secure housing environment, because of the
423 apparent mental illness:

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

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

590-06976-08

20081614c3

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

434 (b)1. The inmate has refused voluntary placement for
435 treatment at a mental health treatment facility after sufficient
436 and conscientious explanation and disclosure of the purpose of
437 placement; or

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

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

443 (6) ~~(5)~~ "In need of care and treatment" means that an inmate
444 has a mental illness for which inpatient services in a mental
445 health treatment facility are necessary and that, but for being
446 isolated in a more restrictive and secure housing environment,
447 because of the ~~which~~ mental illness:

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

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

457 (b)1. The inmate has refused voluntary placement for
458 treatment at a mental health treatment facility after sufficient
459 and conscientious explanation and disclosure of the purpose of
460 placement; or

590-06976-08

20081614c3

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

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

466 (7)(6) "Inmate" means any person committed to the custody
467 of the Department of Corrections.

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

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

590-06976-08

20081614c3

490 ~~(10)~~(9) "Psychiatrist" means a medical practitioner
491 licensed pursuant to chapter 458 or chapter 459 who has primarily
492 diagnosed and treated nervous and mental disorders for a period
493 of not less than 3 years inclusive of psychiatric residency.

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

503 ~~(12)~~(11) "Secretary" means the Secretary of Corrections.

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

590-06976-08

20081614c3

518 ~~(14)~~~~(13)~~ "Warden" means the warden of a state corrections
519 facility or his or her designee.

520 Section 10. Section 945.43, Florida Statutes, is amended to
521 read:

522 945.43 Admission of inmate to mental health treatment
523 facility.--

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

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

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

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

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

590-06976-08

20081614c3

546 2. ~~A petition for such hearing, which requires only the~~
547 ~~signature of the inmate or the inmate's representative for~~
548 ~~completion.~~

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

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

555 (c) The petition for placement may be filed in the county
556 in which the inmate is located ~~being treated at any time within 6~~
557 ~~months of the date of the certificate.~~ The hearing shall be held
558 in the same county, and one of the inmate's physicians at the
559 facility where the inmate is located shall appear as a witness at
560 the hearing.

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

564 (e) If the court finds that the inmate is mentally ill and
565 in need of care and treatment, as defined in s. 945.42(6), the
566 court ~~it~~ shall order that he or she be placed in ~~admitted to~~ a
567 mental health treatment facility or, if the inmate is at a mental
568 health treatment facility, that he or she be retained there.
569 ~~However, the inmate may be immediately transferred to and~~
570 ~~admitted at a mental health treatment facility by executing a~~
571 ~~waiver of the hearing by express and informed consent, without~~
572 ~~awaiting the court order.~~ The court shall authorize the mental
573 health treatment facility to retain the inmate for up to 6
574 months. If, at the end of that time, continued placement

590-06976-08

20081614c3

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

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

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

597 (b) If, at the hearing, the court finds that the inmate is
598 mentally ill and in need of care and treatment, as defined in s.
599 945.42(6), the court ~~it~~ shall order that he or she be placed in
600 ~~transferred to~~ a mental health treatment facility ~~and provided~~
601 ~~appropriate treatment.~~ The court shall provide a copy of its
602 order authorizing placement ~~transfer~~ and all supporting
603 documentation relating to the inmate's condition to the warden of

590-06976-08

20081614c3

604 the treatment facility. If the court finds that the inmate is not
605 mentally ill, it shall dismiss the petition for placement
606 ~~transfer~~.

607 (4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL
608 ~~ALLOWED~~--The warden of an institution in which a mental health
609 treatment facility is located may refuse to place ~~admit~~ any
610 inmate in that treatment facility who is not accompanied by
611 adequate court orders and documentation, as required in ss.
612 945.40-945.49.

613 Section 11. Section 945.44, Florida Statutes, is amended to
614 read:

615 945.44 Emergency placement ~~admission~~ of inmate in a ~~to~~
616 mental health treatment facility.--

617 (1) CRITERIA.--An inmate may be placed in a mental health
618 treatment facility on an emergency basis if he or she is mentally
619 ill and in immediate need of care and treatment, as defined in s.
620 945.42(5).

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

590-06976-08

20081614c3

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

637 Section 12. Section 945.45, Florida Statutes, is amended to
638 read:

639 945.45 ~~Procedure for~~ continued placement of inmates in a
640 mental health treatment facility.--

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

644 (2) ~~(1)~~ PROCEDURE FOR CONTINUED PLACEMENT OF AN INMATE IN A
645 MENTAL HEALTH TREATMENT FACILITY.--

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

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

590-06976-08

20081614c3

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

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

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

686 (b) The administrative law judge may appoint a private pro
687 bono attorney in the circuit in which the treatment facility is
688 located to represent the inmate.

689 (c) The administrative law judge may waive the presence of
690 the inmate at the hearing if such waiver is consistent with the

590-06976-08

20081614c3

691 best interests of the inmate and the inmate's counsel does not
692 object.

693 ~~(d)(2)~~ If, at a hearing pursuant to ss. 945.40-945.49, the
694 administrative law judge finds that the inmate no longer meets
695 the criteria for placement treatment, he or she shall order that
696 the inmate be transferred out of the mental health treatment
697 facility to another facility of the department.

698 ~~(e)(3)~~ If the inmate waives the hearing or if the
699 administrative law judge finds that the inmate is in need of
700 continued placement treatment, the administrative law judge shall
701 enter an order authorizing such continued placement treatment for
702 a period not to exceed 1 year. The same procedure shall be
703 repeated prior to the expiration of each additional 1-year period
704 that the inmate is retained in the mental health treatment
705 facility.

706 ~~(4) Hearings on requests for orders authorizing continued~~
707 ~~placement filed in accordance with this section shall be~~
708 ~~conducted in accordance with the provisions of ss. 120.569 and~~
709 ~~120.57(1), except that any order entered by the administrative~~
710 ~~law judge shall be final and subject to judicial review in~~
711 ~~accordance with s. 120.68.~~

712 Section 13. Section 945.46, Florida Statutes, is amended to
713 read:

714 945.46 Initiation of involuntary placement proceedings with
715 respect to a mentally ill inmate scheduled for release.--

716 (1) If an inmate who is receiving mental health treatment
717 in the department is scheduled for release through expiration of
718 sentence or any other means, but continues to be mentally ill and
719 in need of care and treatment, as defined in s. 945.42(6), the

590-06976-08

20081614c3

720 warden is authorized to initiate procedures for involuntary
721 placement pursuant to ~~the provisions of~~ s. 394.467, 60 days prior
722 to such release.

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

726 Section 14. Section 945.47, Florida Statutes, is amended to
727 read:

728 945.47 Discharge of inmate from mental health treatment.--

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

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

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

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

746 ~~(d) If the inmate's sentence expires and he or she~~
747 ~~continues to be mentally ill and in need of care and treatment,~~

590-06976-08

20081614c3

748 ~~the warden shall initiate proceedings for involuntary placement,~~
749 ~~pursuant to s. 394.467.~~

750 ~~(2) An inmate who is involuntarily placed pursuant to s.~~
751 ~~394.467 at the expiration of his or her sentence may be placed,~~
752 ~~by order of the court, in a facility designated by the Department~~
753 ~~of Children and Family Services as a secure, nonforensic, civil~~
754 ~~facility. Such a placement shall be conditioned upon a finding by~~
755 ~~the court of clear and convincing evidence that the inmate is~~
756 ~~manifestly dangerous to himself or herself or others. The need~~
757 ~~for such placement shall be reviewed by facility staff every 90~~
758 ~~days. At any time that a patient is considered for transfer to a~~
759 ~~nonsecure, civil unit, the court which entered the order for~~
760 ~~involuntary placement shall be notified.~~

761 ~~(2)(3)~~ (2) At any time that an inmate who has received mental
762 health treatment while in the custody of the department becomes
763 eligible for release under supervision or upon end of sentence or
764 ~~parole~~, a ~~complete~~ record of the inmate's mental health treatment
765 may shall be provided to the Parole Commission and to the
766 Department of Children and Family Services upon request. The
767 record shall include, at a minimum least, a summary of the
768 inmate's diagnosis, length of stay in treatment, clinical
769 history, prognosis, prescribed medication, and treatment plan,
770 and recommendations for aftercare services. ~~In the event that the~~
771 ~~inmate is released on parole, the record shall be provided to the~~
772 ~~parole officer who shall assist the inmate in applying for~~
773 ~~services from a professional or an agency in the community. The~~
774 ~~application for treatment and continuation of treatment by the~~
775 ~~inmate may be made a condition of parole, as provided in s.~~

590-06976-08

20081614c3

776 ~~947.19(1); and a failure to participate in prescribed treatment~~
777 ~~may be a basis for initiation of parole violation hearings.~~

778 Section 15. Section 945.48, Florida Statutes, is amended to
779 read:

780 945.48 Rights of inmates ~~inmate~~ provided mental health
781 treatment; procedure for involuntary treatment.--

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

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

800 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF
801 INMATES.--Involuntary mental health treatment of an inmate who
802 refuses treatment that is deemed to be necessary for the
803 appropriate care of the inmate and the safety of the inmate or
804 others may be provided at a mental health treatment facility. ~~an~~

590-06976-08

20081614c3

805 ~~institution authorized to do so by the Assistant Secretary for~~
806 ~~Health Services under the following circumstances:~~

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

823 ~~(b) In a situation other than an emergency situation, the~~
824 ~~warden of the institution containing the mental health treatment~~
825 ~~facility shall petition the circuit court serving the county in~~
826 ~~which the mental health treatment facility is located for an~~
827 ~~order authorizing the treatment of the inmate. The inmate shall~~
828 ~~be provided with a copy of the petition along with the proposed~~
829 ~~treatment, the basis for the proposed treatment, the names of the~~
830 ~~examining experts, and the date, time, and location of the~~
831 ~~hearing. The inmate may have an attorney represent him or her at~~
832 ~~the hearing and, if the inmate is indigent, the court shall~~
833 ~~appoint the office of the public defender or private counsel~~

590-06976-08

20081614c3

834 pursuant to s. 27.40(1) to represent the inmate at the hearing.
835 An attorney representing the inmate shall have access to the
836 inmate and any records, including medical or mental health
837 records, which are relevant to the representation of the inmate.
838 ~~The order shall allow such treatment for a period not to exceed~~
839 ~~90 days from the date of the order. Unless the court is notified~~
840 ~~in writing that the inmate has provided express and informed~~
841 ~~consent in writing, that the inmate has been transferred to~~
842 ~~another institution of the department, or that the inmate is no~~
843 ~~longer in need of treatment, the warden shall, prior to the~~
844 ~~expiration of the initial 90-day order, petition the court for an~~
845 ~~order authorizing the continuation of treatment for another 90-~~
846 ~~day period. This procedure shall be repeated until the inmate~~
847 ~~provides consent or is no longer in need of treatment. Treatment~~
848 ~~may be continued pending a hearing after the filing of any~~
849 ~~petition.~~

850 (4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF
851 AN INMATE.--

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

590-06976-08

20081614c3

863 (b)~~(e)~~ At the hearing on the issue of whether the court
864 should authorize treatment for which an inmate has refused to
865 give express and informed consent, the court shall determine by
866 clear and convincing evidence whether the inmate is mentally ill
867 as defined in this chapter; whether such treatment is essential
868 to the care of the inmate; and whether the treatment is
869 experimental or presents an unreasonable risk of serious,
870 hazardous, or irreversible side effects. In arriving at the
871 substitute judgment decision, the court must consider at least
872 the following:

- 873 1. The inmate's expressed preference regarding treatment;
- 874 2. The probability of adverse side effects;
- 875 3. The prognosis for the inmate without treatment; and
- 876 4. The prognosis for the inmate with treatment.

877
878 ~~The inmate and the inmate's representative shall be provided with~~
879 ~~a copy of the petition and the date, time, and location of the~~
880 ~~hearing. The inmate may have an attorney represent him or her at~~
881 ~~the hearing, and, if the inmate is indigent, the court shall~~
882 ~~appoint the office of the public defender to represent him or her~~
883 ~~at the hearing. The inmate may testify or not, as he or she~~
884 ~~chooses, may cross-examine witnesses testifying on behalf of the~~
885 ~~facility, and may present his or her own witnesses.~~

886 (c) An order authorizing involuntary treatment shall allow
887 such treatment for a period not to exceed 90 days following the
888 date of the order. Unless the court is notified in writing that
889 the inmate has provided express and informed consent in writing,
890 that the inmate has been transferred to another institution of
891 the department, or that the inmate is no longer in need of

590-06976-08

20081614c3

892 treatment, the warden shall, prior to the expiration of the
893 initial 90-day order, petition the court for an order authorizing
894 the continuation of treatment for another 90-day period. This
895 procedure shall be repeated until the inmate provides express and
896 informed consent or is no longer in need of treatment. Treatment
897 may be continued pending a hearing after the timely filing of any
898 petition.

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

917 (6) ~~(d)~~ EMERGENCY TREATMENT.--In addition to the other above
918 provisions of this section for mental health treatment, when the
919 consent ~~permission~~ of the inmate cannot be obtained, the warden
920 of a mental health treatment facility, or his or her designated

590-06976-08

20081614c3

921 representative, with the concurrence of the inmate's attending
922 physician, may authorize emergency surgical or nonpsychiatric
923 medical treatment if such treatment is deemed lifesaving or there
924 is a situation threatening serious bodily harm to the inmate.

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

931 Section 16. Section 945.49, Florida Statutes, is amended to
932 read:

933 945.49 Operation and administration.--

934 (1) ADMINISTRATION.--The department is authorized to
935 contract with the appropriate entities, agencies, persons, and
936 local governing bodies to provide mental health services pursuant
937 to ss. 945.40-945.49.

938 (2) RULES.--The department, in cooperation with the Mental
939 Health Program Office of the Department of Children and Family
940 Services, shall adopt rules necessary for administration of ss.
941 945.40-945.49 in accordance with chapter 120.

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

948 (4) STATUS OF INMATE.--An inmate receiving mental health
949 treatment shall be subject to the same standards applied to other

590-06976-08

20081614c3

950 inmates in the department, including, but not limited to,
951 consideration for parole, release by reason of gain-time
952 allowances as provided for in s. 944.291, and release by
953 expiration of sentence. ~~ADMINISTRATIVE LAW JUDGES.--One or more~~
954 ~~administrative law judges shall be assigned by the Division of~~
955 ~~Administrative Hearings to conduct hearings for continued~~
956 ~~placement.~~

957 Section 17. Paragraph (c) of subsection (3) of section
958 948.01, Florida Statutes, is amended to read:

959 948.01 When court may place defendant on probation or into
960 community control.--

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

590-06976-08

20081614c3

979 ~~(c) Require the department to provide notifications~~
980 ~~pursuant to s. 948.10(7).~~

981 Section 18. Section 948.10, Florida Statutes, is amended to
982 read:

983 948.10 Community control programs.--

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

997 (a) Probation violators charged with technical violations
998 or misdemeanor violations.

999 (b) Parole violators charged with technical violations or
1000 misdemeanor violations.

1001 (c) Individuals found guilty of felonies, who, due to their
1002 criminal backgrounds or the seriousness of the offenses, would
1003 not be placed on regular probation.

1004 ~~(2) An offender may not be placed in community control if:~~

1005 ~~(a) Convicted of or adjudication withheld for a forcible~~
1006 ~~felony as defined in s. 776.08, and~~

590-06976-08

20081614c3

1007 ~~(b) Previously convicted of or adjudication withheld for a~~
1008 ~~forcible felony as defined in s. 776.08.~~

1009
1010 ~~Nothing in this subsection prohibits placement of certain inmates~~
1011 ~~on community control pursuant to s. 947.1747. For the purposes of~~
1012 ~~this subsection, a forcible felony does not include manslaughter~~
1013 ~~or burglary.~~

1014 (2)~~(3)~~ The department shall commit not less than 10 percent
1015 of the parole and probation field staff and supporting resources
1016 to the operation of the community control program. Caseloads
1017 should be restricted to a maximum of 25 cases per officer in
1018 order to ensure an adequate level of staffing. Community control
1019 is an individualized program in which the offender is restricted
1020 to noninstitutional quarters or restricted to his or her own
1021 residence subject to an authorized level of limited freedom.

1022 ~~(4) The department shall develop and implement procedures~~
1023 ~~to diagnose offenders during the prison intake process in order~~
1024 ~~to recommend to the sentencing courts, during the period of~~
1025 ~~retained jurisdiction, suitable candidates for placement in a~~
1026 ~~program of community control.~~

1027 ~~(5) The Department of Corrections shall develop, or shall~~
1028 ~~contract for the development of, an implementation manual, a~~
1029 ~~resource directory, and training programs for implementing~~
1030 ~~community control programs.~~

1031 ~~(a)1. The community control implementation manual shall~~
1032 ~~include, but shall not be limited to, an explanation of the types~~
1033 ~~of offenders who should be placed in community control programs,~~
1034 ~~procedures for diagnosing offenders, objectives and goals of such~~
1035 ~~placements, examples of alternative placements based upon the~~

590-06976-08

20081614c3

1036 ~~experience of other states, and instruction in developing an~~
1037 ~~individualized program for each offender.~~

1038 ~~2. An offender's individualized program shall include~~
1039 ~~diagnosis of treatment needs in the areas of education, substance~~
1040 ~~abuse, and mental health, as well as community sanction~~
1041 ~~provisions, restitution and community service provisions,~~
1042 ~~rehabilitation objectives and programs, and a schedule for~~
1043 ~~periodic review and reevaluation of such individualized programs.~~
1044 ~~Individualized programs for offenders who committed controlled~~
1045 ~~substance violations shall include provision for the conduct of~~
1046 ~~random substance abuse testing intermittently throughout the term~~
1047 ~~of supervision, upon the direction of the correctional probation~~
1048 ~~officer as defined in s. 943.10(3).~~

1049 ~~(b) The community control resource directory shall include,~~
1050 ~~but shall not be limited to, for each circuit in the state, an~~
1051 ~~identification and description of community resources that are~~
1052 ~~available for the implementation of community control programs,~~
1053 ~~which resources include the following:~~

1054 ~~1. The name, address, phone, county location, capacity, and~~
1055 ~~cost.~~

1056 ~~2. Client eligibility and characteristics which prohibit~~
1057 ~~acceptance.~~

1058 ~~3. The objectives of the program.~~

1059 ~~4. The primary source of referrals.~~

1060 ~~5. The average length of stay.~~

1061 ~~6. The services offered.~~

1062 ~~(c) Training programs shall be provided for correctional~~
1063 ~~field staff, local offender advisory councils, and others~~
1064 ~~responsible for the implementation of community control programs.~~

590-06976-08

20081614c3

1065 ~~(6) The Florida Court Education Council and the office of~~
1066 ~~the State Courts Administrator shall coordinate the development~~
1067 ~~and implementation of a reference manual, directory, and training~~
1068 ~~programs for judges in relation to community control disposition.~~

1069 ~~(7) Upon written request, when an offender is placed on~~
1070 ~~community control, the department shall notify:~~

1071 ~~(a) The original arresting law enforcement agency.~~

1072 ~~(b) The sheriff or chief law enforcement officer of the~~
1073 ~~county in which the offender is to be placed.~~

1074 ~~(c) The chief officer of any local law enforcement agency~~
1075 ~~within whose jurisdiction the offender is to be placed.~~

1076 ~~(d) The victim of the offense, the victim's parent or~~
1077 ~~guardian if the victim is a minor, the lawful representative of~~
1078 ~~the victim or the victim's parent or guardian if the victim is a~~
1079 ~~minor, or the next of kin if the victim is a homicide victim.~~

1080
1081 ~~Such notification shall include the name and street address of~~
1082 ~~the offender, the length of supervision, and the nature of the~~
1083 ~~offense. Update notification must be provided with respect to~~
1084 ~~violation of the terms or conditions of the placement.~~

1085 ~~(8) If an offender is sentenced to community control by the~~
1086 ~~court and the offender is ineligible to be placed on community~~
1087 ~~control as provided in subsection (2), the department shall:~~

1088 ~~(a) Review and verify whether an ineligible offender was~~
1089 ~~placed on community control.~~

1090 ~~(b) Within 30 days after receipt of the order, notify the~~
1091 ~~sentencing judge, the state attorney, and the Attorney General~~
1092 ~~that the offender was ineligible for placement on community~~
1093 ~~control.~~

590-06976-08

20081614c3

1094 ~~(c) Provide a quarterly report to the chief judge and the~~
1095 ~~state attorney of each circuit citing the number of ineligible~~
1096 ~~offenders placed on community control within that circuit.~~

1097 ~~(d) Provide an annual report to the Governor, the President~~
1098 ~~of the Senate, the Speaker of the House of Representatives, and~~
1099 ~~the Chief Justice of the Supreme Court on the placement of~~
1100 ~~ineligible offenders on community control in order to assist in~~
1101 ~~preparing judicial education programs or for any other purpose.~~

1102 (3)~~(9)~~ Procedures governing violations of community control
1103 shall be the same as those described in s. 948.06 with respect to
1104 probation.

1105 (4)~~(10)~~ Upon completion of the sanctions imposed in the
1106 community control plan before the expiration of the term ordered
1107 by the court, the department may petition the court to discharge
1108 the offender from community control supervision or to return the
1109 offender to a program of regular probation supervision. In
1110 considering the petition, the court should recognize the limited
1111 staff resources committed to the community control program, the
1112 purpose of the program, and the offender's successful compliance
1113 with the conditions set forth in the order of the court.

1114 ~~(11) The Department of Corrections shall:~~

1115 ~~(a) Develop and maintain a weighted statewide caseload~~
1116 ~~equalization strategy designed to ensure that high-risk offenders~~
1117 ~~receive the highest level of supervision; and~~

1118 ~~(b) Develop and implement a supervision risk assessment~~
1119 ~~instrument for the community control population which is similar~~
1120 ~~to the probation risk assessment instrument established by the~~
1121 ~~National Institute of Justice.~~

590-06976-08

20081614c3

1122 ~~(5)~~~~(12)~~ In its annual report to the Governor, the President
1123 of the Senate, and the Speaker of the House of Representatives
1124 under s. 20.315(5), the department shall include a detailed
1125 analysis of the community control program and the department's
1126 specific efforts to protect the public from offenders placed on
1127 community control. The analysis must include, but need not be
1128 limited to, specific information on the department's ability to
1129 meet minimum officer-to-offender contact standards, the number of
1130 crimes committed by offenders on community control, and the level
1131 of community supervision provided.

1132 Section 19. Subsections (1) and (2) of section 958.04,
1133 Florida Statutes, are amended to read:

1134 958.04 Judicial disposition of youthful offenders.--

1135 (1) The court may sentence as a youthful offender any
1136 person:

1137 (a) Who is at least 18 years of age or who has been
1138 transferred for prosecution to the criminal division of the
1139 circuit court pursuant to chapter 985;

1140 (b) Who is found guilty of or who has tendered, and the
1141 court has accepted, a plea of nolo contendere or guilty to a
1142 crime ~~that which~~ is, under the laws of this state, a felony if
1143 the offender is younger than 21 years of age at the time sentence
1144 is imposed ~~such crime was committed before the defendant's 21st~~
1145 ~~birthday;~~ and

1146 (c) Who has not previously been classified as a youthful
1147 offender under the provisions of this act; however, a ~~no~~ person
1148 who has been found guilty of a capital or life felony may not be
1149 sentenced as a youthful offender under this act.

590-06976-08

20081614c3

1150 (2) In lieu of other criminal penalties authorized by law
1151 and notwithstanding any imposition of consecutive sentences, the
1152 court shall dispose of the criminal case as follows:

1153 (a) The court may place a youthful offender under
1154 supervision on probation or in a community control program, with
1155 or without an adjudication of guilt, under such conditions as the
1156 court may lawfully impose for a period of not more than 6 years.
1157 Such period of supervision may ~~shall~~ not exceed the maximum
1158 sentence for the offense for which the youthful offender was
1159 found guilty.

1160 (b) The court may impose a period of incarceration as a
1161 condition of probation or community control, which period of
1162 incarceration shall be served in ~~either~~ a county facility, a
1163 department probation and restitution center, or a community
1164 residential facility that ~~which~~ is owned and operated by any
1165 public or private entity providing such services. A ~~No~~ youthful
1166 offender may not be required to serve a period of incarceration
1167 in a community correctional center as defined in s. 944.026.
1168 Admission to a department facility or center shall be contingent
1169 upon the availability of bed space and shall take into account
1170 the purpose and function of such facility or center. Placement in
1171 such a facility or center may ~~shall~~ not exceed 364 days.

1172 (c) The court may impose a split sentence whereby the
1173 youthful offender is to be placed on probation or community
1174 control upon completion of any specified period of incarceration;
1175 however, if the incarceration period is to be served in a
1176 department facility other than a probation and restitution center
1177 or community residential facility, such period shall be for not
1178 less than 1 year or more than 4 years. The period of probation or

590-06976-08

20081614c3

1179 community control shall commence immediately upon the release of
1180 the youthful offender from incarceration. The period of
1181 incarceration imposed or served and the period of probation or
1182 community control, when added together, may ~~shall~~ not exceed 6
1183 years.

1184 (d) The court may commit the youthful offender to the
1185 custody of the department for a period of not more than 6 years,
1186 provided that any such commitment may ~~shall~~ not exceed the
1187 maximum sentence for the offense for which the youthful offender
1188 has been convicted. Successful participation in the youthful
1189 offender program by an offender who is sentenced as a youthful
1190 offender by the court pursuant to this section, or is classified
1191 as such by the department, may result in a recommendation to the
1192 court, by the department, for a modification or early termination
1193 of probation, community control, or the sentence at any time
1194 prior to the scheduled expiration of such term. The department
1195 shall adopt rules defining criteria for successful participation
1196 in the youthful offender program which shall include program
1197 participation, academic and vocational training, and satisfactory
1198 adjustment. When a modification of the sentence results in the
1199 reduction of a term of incarceration, the court may impose a term
1200 of probation or community control which, when added to the term
1201 of incarceration, may ~~shall~~ not exceed the original sentence
1202 imposed.

1203 Section 20. Section 958.11, Florida Statutes, is amended to
1204 read:

1205 958.11 Designation of institutions and programs for
1206 youthful offenders; assignment from youthful offender
1207 institutions and programs.--

590-06976-08

20081614c3

1208 (1) The department shall by rule designate separate
1209 institutions and programs for youthful offenders and shall employ
1210 and utilize personnel specially qualified by training and
1211 experience to operate all such institutions and programs for
1212 youthful offenders. Youthful offenders who are at least 14 years
1213 of age but who have not yet reached the age of 19 years at the
1214 time of reception shall be separated from youthful offenders who
1215 are 19 years of age or older, except that if the population of
1216 the facilities designated for 14-year-old to 18-year-old youthful
1217 offenders exceeds 100 percent of lawful capacity, the department
1218 may assign 18-year-old youthful offenders to the 19-24 age group
1219 facility.

1220 (2) Youthful offender institutions and programs shall
1221 contain only those youthful offenders sentenced as such by a
1222 court or classified as such by the department, pursuant to the
1223 requirements of subsections (4) and (6), except that under
1224 special circumstances select adult offenders may be assigned to
1225 youthful offender institutions. Female youthful offenders of all
1226 ages may continue to be housed together at those institutions
1227 designated by department rule ~~Florida Correctional Institution~~
1228 ~~and Broward Correctional Institution~~ until such time as
1229 institutions for a female youthful offenders are offender
1230 institution is established or adapted to allow for separation by
1231 age and to accommodate all custody classifications.

1232 (3) The department may assign a youthful offender to a
1233 facility in the state correctional system which is not designated
1234 for the care, custody, control, and supervision of youthful
1235 offenders or an age group only in the following circumstances:

590-06976-08

20081614c3

1236 (a) If the youthful offender is convicted of a new crime
1237 which is a felony under the laws of this state.

1238 (b) If the youthful offender becomes such a serious
1239 management or disciplinary problem resulting from serious
1240 violations of the rules of the department that his or her
1241 original assignment would be detrimental to the interests of the
1242 program and to other inmates committed thereto.

1243 (c) If the youthful offender needs medical treatment,
1244 health services, or other specialized treatment otherwise not
1245 available at the youthful offender facility.

1246 (d) If the department determines that the youthful offender
1247 should be transferred outside of the state correctional system,
1248 as provided by law, for services not provided by the department.

1249 (e) If bed space is not available in a designated community
1250 residential facility, the department may assign a youthful
1251 offender to a community residential facility, provided that the
1252 youthful offender is separated from other offenders insofar as is
1253 practical.

1254 (f) If the youthful offender was originally assigned to a
1255 facility designated for 14-year-old to 18-year-old youthful
1256 offenders, but subsequently reaches the age of 19 years, the
1257 department may retain the youthful offender in the facility if
1258 the department determines that it is in the best interest of the
1259 youthful offender and the department.

1260 (g) If the department determines that a youthful offender
1261 originally assigned to a facility designated for the 19-24 age
1262 group is mentally or physically vulnerable by such placement, the
1263 department may reassign a youthful offender to a facility
1264 designated for the 14-18 age group if the department determines

590-06976-08

20081614c3

1265 that a reassignment is necessary to protect the safety of the
1266 youthful offender or the institution.

1267 (h) If the department determines that a youthful offender
1268 originally assigned to a facility designated for the 14-18 age
1269 group is disruptive, incorrigible, or uncontrollable, the
1270 department may reassign a youthful offender to a facility
1271 designated for the 19-24 age group if the department determines
1272 that a reassignment would best serve the interests of the
1273 youthful offender and the department.

1274 (4) The department ~~Office of the Assistant Secretary for~~
1275 ~~Youthful Offenders~~ shall continuously screen all institutions,
1276 facilities, and programs for any inmate who meets the eligibility
1277 requirements for youthful offender designation specified in s.
1278 958.04(1)(a) and (c) whose age does not exceed 24 years and whose
1279 total length of sentence does not exceed 10 years, and the
1280 department may classify and assign as a youthful offender any
1281 inmate who meets the criteria of this subsection.

1282 (5) The department ~~Population Movement and Control~~
1283 ~~Coordinator~~ shall coordinate all youthful offender assignments or
1284 transfers and shall ~~consult with the Office of the Assistant~~
1285 ~~Secretary for Youthful Offenders. The Office of the Assistant~~
1286 ~~Secretary for Youthful Offenders shall~~ review and maintain access
1287 to full and complete documentation and substantiation of all such
1288 assignments or transfers of youthful offenders to or from
1289 facilities in the state correctional system which are not
1290 designated for their care, custody, and control, except
1291 assignments or transfers made pursuant to paragraph (3)(c).

1292 (6) The department may assign to a youthful offender
1293 facility any inmate, except a capital or life felon, whose age

590-06976-08

20081614c3

1294 | does not exceed 19 years but who does not otherwise meet the
1295 | criteria of this section, if the department ~~Assistant Secretary~~
1296 | ~~for Youthful Offenders~~ determines that such inmate's mental or
1297 | physical vulnerability would substantially or materially
1298 | jeopardize his or her safety in a nonyouthful offender facility.
1299 | Assignments made under this subsection shall be included in the
1300 | department's annual report.

1301 | Section 21. Section 958.12, Florida Statutes, is amended to
1302 | read:

1303 | 958.12 Participation in certain activities required.--

1304 | (1) A youthful offender shall be required to participate in
1305 | work assignments, and in career, academic, counseling, and other
1306 | rehabilitative programs in accordance with this section,
1307 | including, but not limited to:

1308 | (a) All youthful offenders may be required, as appropriate,
1309 | to participate in:

- 1310 | 1. Reception and orientation.
- 1311 | 2. Evaluation, needs assessment, and classification.
- 1312 | 3. Educational programs.
- 1313 | 4. Career and job training.
- 1314 | 5. Life and socialization skills training, including
1315 | anger/aggression control.

- 1316 | 6. Prerelease orientation and planning.

- 1317 | 7. Appropriate transition services.

1318 | (b) In addition to the requirements in paragraph (a), the
1319 | department shall make available:

- 1320 | 1. Religious services and counseling.
- 1321 | 2. Social services.
- 1322 | 3. Substance abuse treatment and counseling.

590-06976-08

20081614c3

- 1323 4. Psychological and psychiatric services.
1324 5. Library services.
1325 6. Medical and dental health care.
1326 7. Athletic, recreational, and leisure time activities.
1327 8. Mail and visiting privileges.
1328

1329 Income derived by a youthful offender from participation in such
1330 activities may be used, in part, to defray a portion of the costs
1331 of his or her incarceration or supervision; to satisfy
1332 preexisting obligations; to pay fines, counseling fees, or other
1333 costs lawfully imposed; or to pay restitution to the victim of
1334 the crime for which the youthful offender has been convicted in
1335 an amount determined by the sentencing court. Any such income not
1336 used for such reasons or not used as provided in s. 946.513 or s.
1337 958.09 shall be placed in a bank account for use by the youthful
1338 offender upon his or her release.

1339 (2) A comprehensive transition and postrelease plan shall
1340 be developed for the youthful offender by a team consisting of a
1341 transition assistance officer, a classification officer, an
1342 educational representative, a health services administrator, a
1343 probation and parole officer, and the youthful offender.

1344 ~~(3) A youthful offender shall be visited by a probation and~~
1345 ~~parole officer prior to the offender's release from incarceration~~
1346 ~~in order to assist in the youthful offender's transition.~~

1347 (3)~~(4)~~ Community partnerships shall be developed by the
1348 department to provide postrelease community resources. The
1349 department shall develop partnerships with entities that ~~which~~
1350 include, but are not limited to, state agencies ~~the Department of~~
1351 ~~Labor and Employment Security, the Department of Children and~~

590-06976-08

20081614c3

1352 ~~Family Services,~~ community health agencies, private agencies, and
1353 school systems.

1354 (4) ~~(5)~~ If supervision of the youthful offender after
1355 release from incarceration is required, this ~~and~~ may be
1356 accomplished in a residential or nonresidential program or
1357 intensive day treatment, ~~or~~ through supervision by a correctional
1358 probation ~~and parole~~ officer.

1359 Section 22. This act shall take effect October 1, 2008.