

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

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

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

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88 manuals be developed in consultation with the Florida
89 Conference of Circuit Court Judges and the State Courts
90 Administrator; deleting requirements for the department in
91 developing and implementing community control programs,
92 resource directories, and training programs; deleting a
93 requirement for the Florida Court Education Council and
94 the State Courts Administrator to coordinate certain
95 resources for judges pertaining to community control;
96 eliminating provisions governing review and notice by the
97 department of offenders ineligible for community control
98 and 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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117

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

119

120 Section 1. Subsections (2), (3), and (4) of section
121 921.187, Florida Statutes, are amended to read:

122 921.187 Disposition and sentencing; alternatives;
123 restitution.--

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

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

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

129

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

134 (2)~~(3)~~ In addition to any other penalty provided by law for
135 an offense enumerated in s. 775.0877(1)(a)-(n), if the offender
136 is convicted of criminal transmission of HIV pursuant to s.
137 775.0877, the court may sentence the offender to criminal
138 quarantine community control as described in s. 948.001.

139 (3)~~(4)~~ The court shall require an offender to make
140 restitution under s. 775.089, unless the court finds clear and
141 compelling reasons not to order such restitution. If the court
142 does not order restitution, or orders restitution of only a
143 portion of the damages, as provided in s. 775.089, the court
144 shall state the reasons on the record in detail. An order
145 requiring an offender to make restitution to a victim under s.

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146 775.089 does not remove or diminish the requirement that the
147 court order payment to the Crimes Compensation Trust Fund under
148 chapter 960.

149 Section 2. Section 940.061, Florida Statutes, is amended to
150 read:

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

163 Section 3. Section 943.16, Florida Statutes, is amended to
164 read:

165 943.16 Payment of tuition or officer certification
166 examination fee by employing agency; reimbursement of tuition,
167 other course expenses, wages, and benefits.--

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

171 (2) ~~(a)~~ A trainee who attends such approved training program
172 at the expense of an employing agency must remain in the
173 employment or appointment of such employing agency for a period
174 of not less than 2 years after graduation from the basic recruit

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175 training program. If employment or appointment is terminated on
176 the trainee's own initiative within 2 years, he or she shall
177 reimburse the employing agency for the full cost of his or her
178 tuition and, other course expenses, ~~and additional amounts as~~
179 ~~provided in paragraph (b).~~

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

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

190 ~~2. For a trainee terminating employment within 6 months and~~
191 ~~1 day to 12 months of graduation from the basic recruit training~~
192 ~~program, an amount equal to three fourths of the full amount of~~
193 ~~wages and benefits paid during the academy training period.~~

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

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

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

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

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

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

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

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

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232 944.1905 Initial inmate classification; inmate
233 reclassification.--The Department of Corrections shall classify
234 inmates pursuant to an objective classification scheme. The
235 initial inmate classification questionnaire and the inmate
236 reclassification questionnaire must cover both aggravating and
237 mitigating factors.

238 (5) (a) Notwithstanding any other provision of this section
239 or chapter 958, the department shall assign to facilities housing
240 youthful offenders ~~specific correctional facilities~~ all inmates
241 who are less than 18 years of age and who ~~are not eligible for~~
242 ~~and~~ have not been assigned to a facility for youthful offenders
243 under the provisions of chapter 958. Such an inmate shall be
244 assigned to a facility for youthful offenders until the inmate is
245 18 years of age; however, the department may assign the inmate to
246 a facility for youthful offenders until the inmate reaches an age
247 not to exceed 21 years if the department determines that the
248 continued assignment is in the best interests of the inmate and
249 the assignment does not pose an unreasonable risk to other
250 inmates in the facility. ~~Any such inmate who is less than 18~~
251 ~~years of age shall be housed in a dormitory that is separate from~~
252 ~~inmates who are 18 years of age or older. Furthermore, the~~
253 ~~department shall provide any food service, education, and~~
254 ~~recreation for such inmate separately from inmates who are 18~~
255 ~~years of age or older.~~

256 ~~(b) Notwithstanding the requirements of s. 958.11, any~~
257 ~~inmate who is less than 18 years of age, who was 15 years of age~~
258 ~~or younger at the time of his or her offense, and who has no~~
259 ~~prior juvenile adjudication must be placed in a facility for~~
260 ~~youthful offenders until the inmate is 18 years of age. At the~~

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261 ~~discretion of the department, such an inmate may be placed in a~~
262 ~~facility for youthful offenders until the inmate is 21 years of~~
263 ~~age.~~

264 (b) ~~(e)~~ Any inmate who is assigned to a facility under
265 paragraph (a) is subject to the provisions of s. 958.11 regarding
266 facility assignments, and ~~or paragraph (b)~~ shall be removed and
267 reassigned to the general inmate population if his or her
268 behavior threatens the safety of other inmates or correctional
269 staff.

270 Section 5. Section 944.293, Florida Statutes, is amended to
271 read:

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

287 Section 6. Section 944.47, Florida Statutes, is amended to
288 read:

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289 944.47 Introduction, removal, or possession of certain
290 articles unlawful; penalty.--

291 (1) (a) Except through regular channels as authorized by the
292 officer in charge of the correctional institution, it is unlawful
293 to introduce into or upon the grounds of any state correctional
294 institution, or to take or attempt to take or send or attempt to
295 send therefrom, any of the following articles which are hereby
296 declared to be contraband for the purposes of this section, to
297 wit:

298 1. Any written or recorded communication or any currency or
299 coin given or transmitted, or intended to be given or
300 transmitted, to any inmate of any state correctional institution.

301 2. Any article of food or clothing given or transmitted, or
302 intended to be given or transmitted, to any inmate of any state
303 correctional institution.

304 3. Any intoxicating beverage or beverage which causes or
305 may cause an intoxicating effect.

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

309 5. Any firearm or weapon of any kind or any explosive
310 substance.

311 6. Any cellular telephone or other portable communication
312 device intentionally and unlawfully introduced inside the secure
313 perimeter of any state correctional institution without prior
314 authorization or consent from the officer in charge of such
315 correctional institution. As used in this subparagraph, the term
316 "portable communication device" means any device carried, worn,
317 or stored which is designed or intended to receive or transmit

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318 verbal or written messages, access or store data, or connect
319 electronically to the Internet or any other electronic device,
320 and which allows communications in any form. Such devices
321 include, but are not limited to, portable two-way pagers, hand-
322 held radios, cellular telephones, Blackberry-type devices,
323 personal digital assistants or PDA's, laptop computers, or any
324 components of these devices which are intended to be used to
325 assemble such devices. The term also includes any new technology
326 that is developed for similar purposes. Excluded from this
327 definition is any device having communication capabilities which
328 has been approved or issued by the department for investigative
329 or institutional security purposes or for conducting other state
330 business.

331 (b) It is unlawful to transmit or attempt to transmit to,
332 or cause or attempt to cause to be transmitted to or received by,
333 any inmate of any state correctional institution any article or
334 thing declared by this subsection to be contraband, at any place
335 which is outside the grounds of such institution, except through
336 regular channels as authorized by the officer in charge of such
337 correctional institution.

338 (c) It is unlawful for any inmate of any state correctional
339 institution or any person while upon the grounds of any state
340 correctional institution to be in actual or constructive
341 possession of any article or thing declared by this section to be
342 contraband, except as authorized by the officer in charge of such
343 correctional institution.

344 (2) A person who violates any provision of this section as
345 it pertains to an article of contraband described in subparagraph
346 (1) (a) 1., ~~or~~ subparagraph (1) (a) 2., or subparagraph (1) (a) 6.

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347 commits ~~is guilty of~~ a felony of the third degree, punishable as
348 provided in s. 775.082, s. 775.083, or s. 775.084. In all other
349 cases, a violation of a provision of this section constitutes a
350 felony of the second degree, punishable as provided in s.
351 775.082, s. 775.083, or s. 775.084.

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

354 945.41 Legislative intent of ss. 945.40-945.49.--It is the
355 intent of the Legislature that mentally ill inmates in the
356 custody of the Department of Corrections receive evaluation and
357 appropriate treatment for their mental illness through a
358 continuum of services. It is further the intent of the
359 Legislature that:

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

371 (5) The department may designate a mental health treatment
372 facility for adult, and youthful, and female offenders or may
373 contract with other appropriate entities, persons, or agencies
374 for such services.

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375 Section 8. Section 945.42, Florida Statutes, is amended to
376 read:

377 945.42 Definitions; ss. 945.40-945.49.--As used in ss.
378 945.40-945.49, the following terms shall have the meanings
379 ascribed to them, unless the context shall clearly indicate
380 otherwise:

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

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

393 (3)~~(2)~~ "Department" means the Department of Corrections.

394 (4)~~(3)~~ "Director" means the Director for Mental Health
395 Services of the Department of Corrections or his or her designee.

396 (5)~~(4)~~ "In immediate need of care and treatment" means that
397 an inmate is apparently mentally ill and is not able to be
398 appropriately cared for in the institution where he or she ~~the~~
399 ~~inmate~~ is confined and that, but for being isolated in a more
400 restrictive and secure housing environment, because of the
401 apparent mental illness:

402 (a)1. The inmate is demonstrating a refusal to care for
403 himself or herself and without immediate treatment intervention,

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404 is likely to continue to refuse to care for himself or herself,
405 and such refusal ~~the alleged mental illness~~ poses an immediate,
406 real, and present threat of substantial harm to his or her ~~the~~
407 ~~inmate's~~ well-being; ~~or to the safety of others.~~

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

412 (b)1. The inmate has refused voluntary placement for
413 treatment at a mental health treatment facility after sufficient
414 and conscientious explanation and disclosure of the purpose of
415 placement; or

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

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

421 (6) (5) "In need of care and treatment" means that an inmate
422 has a mental illness for which inpatient services in a mental
423 health treatment facility are necessary and that, but for being
424 isolated in a more restrictive and secure housing environment,
425 because of the ~~which~~ mental illness:

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

431 2. There is a substantial likelihood that in the near
432 future the inmate will inflict serious bodily harm on himself or

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

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

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

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

444 (7) (6)- "Inmate" means any person committed to the custody
445 of the Department of Corrections.

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

456 (9) (8)- "Mentally ill" means an impairment of the mental or
457 emotional processes, of the ability to exercise conscious control
458 of one's actions, or of the ability to perceive or understand
459 reality or to understand, which impairment substantially
460 interferes with a person's ability to meet the ordinary demands
461 of living, regardless of etiology, except that, for the purposes

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462 of transfer of an inmate to a mental health treatment facility,
463 the term does not include retardation or developmental disability
464 as defined in chapter 393, simple intoxication, or conditions
465 manifested only by antisocial behavior or substance abuse drug
466 addiction. However, an individual who is mentally retarded or
467 developmentally disabled may also have a mental illness.

468 (10)-(9) "Psychiatrist" means a medical practitioner
469 licensed pursuant to chapter 458 or chapter 459 who has primarily
470 diagnosed and treated nervous and mental disorders for a period
471 of not less than 3 years inclusive of psychiatric residency.

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

481 (12)-(11) "Secretary" means the Secretary of Corrections.

482 (13)-(12) "Transitional mental health care" means a level of
483 care that is more intensive than outpatient care, but less
484 intensive than crisis stabilization care, and is characterized by
485 the provision of traditional mental health treatments such as
486 group and individual therapy, activity therapy, recreational
487 therapy, and psychotropic medications ~~chemotherapy~~, in the
488 context of a structured residential setting. Transitional mental
489 health care is indicated for a person with chronic or residual
490 symptomatology who does not require crisis stabilization care or

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491 acute psychiatric care ~~at the hospital level~~, but whose
492 impairment ~~impairments~~ in functioning nevertheless renders ~~render~~
493 him or her incapable of adjusting satisfactorily within the
494 general inmate population, ~~even with the assistance of outpatient~~
495 ~~care.~~

496 (14) ~~(13)~~ "Warden" means the warden of a state corrections
497 facility or his or her designee.

498 Section 9. Section 945.43, Florida Statutes, is amended to
499 read:

500 945.43 Admission of inmate to mental health treatment
501 facility.--

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

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

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

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

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

524 2. ~~A petition for such hearing, which requires only the~~
525 ~~signature of the inmate or the inmate's representative for~~
526 ~~completion.~~

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

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

533 (c) The petition for placement may be filed in the county
534 in which the inmate is located ~~being treated at any time within 6~~
535 ~~months of the date of the certificate.~~ The hearing shall be held
536 in the same county, and one of the inmate's physicians at the
537 facility where the inmate is located shall appear as a witness at
538 the hearing.

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

542 (e) If the court finds that the inmate is mentally ill and
543 in need of care and treatment, as defined in s. 945.42(6), the
544 court ~~it~~ shall order that he or she be placed in ~~admitted to~~ a
545 mental health treatment facility or, if the inmate is at a mental
546 health treatment facility, that he or she be retained there.
547 ~~However, the inmate may be immediately transferred to and~~
548 ~~admitted at a mental health treatment facility by executing a~~

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549 ~~waiver of the hearing by express and informed consent, without~~
550 ~~awaiting the court order.~~ The court shall authorize the mental
551 health treatment facility to retain the inmate for up to 6
552 months. If, at the end of that time, continued placement
553 ~~treatment~~ is necessary, the warden shall apply to the Division of
554 Administrative Hearings in accordance with s. 945.45 ~~court~~ for an
555 order authorizing continued placement.

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

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

575 (b) If, at the hearing, the court finds that the inmate is
576 mentally ill and in need of care and treatment, as defined in s.
577 945.42(6), the court ~~it~~ shall order that he or she be placed in

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578 ~~transferred to~~ a mental health treatment facility ~~and provided~~
579 ~~appropriate treatment~~. The court shall provide a copy of its
580 order authorizing placement transfer and all supporting
581 documentation relating to the inmate's condition to the warden of
582 the treatment facility. If the court finds that the inmate is not
583 mentally ill, it shall dismiss the petition for placement
584 ~~transfer~~.

585 (4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL
586 ALLOWED.--The warden of an institution in which a mental health
587 treatment facility is located may refuse to place ~~admit~~ any
588 inmate in that treatment facility who is not accompanied by
589 adequate court orders and documentation, as required in ss.
590 945.40-945.49.

591 Section 10. Section 945.44, Florida Statutes, is amended to
592 read:

593 945.44 Emergency placement ~~admission~~ of inmate in a ~~to~~
594 mental health treatment facility.--

595 (1) CRITERIA.--An inmate may be placed in a mental health
596 treatment facility on an emergency basis if he or she is mentally
597 ill and in immediate need of care and treatment, as defined in s.
598 945.42(5).

599 (2) PROCEDURE FOR EMERGENCY PLACEMENT ADMISSION.--An inmate
600 who is mentally ill and in immediate need of care and treatment
601 that which cannot be provided at the institution where he or she
602 is confined may be placed in ~~admitted to~~ a mental health
603 treatment facility on an emergency basis. The inmate may be
604 placed ~~transferred~~ immediately in a mental health treatment ~~to~~
605 ~~the~~ facility and shall be accompanied by the recommendation of
606 the warden of the institution where the inmate is confined, which

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607 recommendation must ~~shall~~ state the need for the emergency
608 placement transfer and ~~shall~~ include a written opinion of a
609 physician verifying the need for the emergency placement
610 ~~transfer~~. Upon the emergency placement ~~the admission~~ of the
611 inmate in ~~to~~ the facility, the inmate shall be evaluated; if he
612 or she is determined to be in need of treatment or care, the
613 warden shall initiate proceedings for placement of the inmate, as
614 described in s. 945.43(2).

615 Section 11. Section 945.45, Florida Statutes, is amended to
616 read:

617 945.45 ~~Procedure for~~ continued placement of inmates in a
618 mental health treatment facility.--

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

622 (2) ~~(1)~~ PROCEDURE FOR CONTINUED PLACEMENT OF AN INMATE IN A
623 MENTAL HEALTH TREATMENT FACILITY.--

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

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635 health treatment facility pending a hearing after the timely
636 filing of the petition.

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

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

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

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

667 (c) The administrative law judge may waive the presence of
668 the inmate at the hearing if such waiver is consistent with the
669 best interests of the inmate and the inmate's counsel does not
670 object.

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

676 (e) ~~(3)~~ If the inmate waives the hearing or if the
677 administrative law judge finds that the inmate is in need of
678 continued placement ~~treatment~~, the administrative law judge shall
679 enter an order authorizing such continued placement ~~treatment~~ for
680 a period not to exceed 1 year. The same procedure shall be
681 repeated prior to the expiration of each additional 1-year period
682 that the inmate is retained in the mental health treatment
683 facility.

684 ~~(4) Hearings on requests for orders authorizing continued~~
685 ~~placement filed in accordance with this section shall be~~
686 ~~conducted in accordance with the provisions of ss. 120.569 and~~
687 ~~120.57(1), except that any order entered by the administrative~~
688 ~~law judge shall be final and subject to judicial review in~~
689 ~~accordance with s. 120.68.~~

690 Section 12. Section 945.46, Florida Statutes, is amended to
691 read:

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692 945.46 Initiation of involuntary placement proceedings with
693 respect to a mentally ill inmate scheduled for release.--

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

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

704 Section 13. Section 945.47, Florida Statutes, is amended to
705 read:

706 945.47 Discharge of inmate from mental health treatment.--

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

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

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

719 (b)(e) If the inmate's sentence expires during his or her
720 treatment, but he or she is no longer in need of care and

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721 treatment as an inpatient, the inmate may be released with a
722 recommendation for outpatient treatment, pursuant to the
723 provisions of ss. 945.40-945.49. ~~or~~

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

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

739 ~~(2)(3)~~ At any time that an inmate who has received mental
740 health treatment while in the custody of the department becomes
741 eligible for release under supervision or upon end of sentence or
742 parole, a ~~complete~~ record of the inmate's mental health treatment
743 may shall be provided to the Parole Commission and to the
744 Department of Children and Family Services upon request. The
745 record shall include, at a minimum least, a summary of the
746 inmate's diagnosis, length of stay in treatment, clinical
747 history, prognosis, prescribed medication, ~~and~~ treatment plan,
748 and recommendations for aftercare services. ~~In the event that the~~
749 ~~inmate is released on parole, the record shall be provided to the~~

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750 ~~parole officer who shall assist the inmate in applying for~~
751 ~~services from a professional or an agency in the community. The~~
752 ~~application for treatment and continuation of treatment by the~~
753 ~~inmate may be made a condition of parole, as provided in s.~~
754 ~~947.19(1); and a failure to participate in prescribed treatment~~
755 ~~may be a basis for initiation of parole violation hearings.~~

756 Section 14. Section 945.48, Florida Statutes, is amended to
757 read:

758 945.48 Rights of inmates ~~inmate~~ provided mental health
759 treatment; procedure for involuntary treatment.--

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

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

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778 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF

779 INMATES.--Involuntary mental health treatment of an inmate who
780 refuses treatment that is deemed to be necessary for the
781 appropriate care of the inmate and the safety of the inmate or
782 others may be provided at a mental health treatment facility. ~~an~~
783 ~~institution authorized to do so by the Assistant Secretary for~~
784 ~~Health Services under the following circumstances:~~

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

801 ~~(b) In a situation other than an emergency situation, the~~
802 ~~warden of the institution containing the mental health treatment~~
803 ~~facility shall petition the circuit court serving the county in~~
804 ~~which the mental health treatment facility is located for an~~
805 ~~order authorizing the treatment of the inmate. The inmate shall~~
806 ~~be provided with a copy of the petition along with the proposed~~

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807 treatment, the basis for the proposed treatment, the names of the
808 examining experts, and the date, time, and location of the
809 hearing. The inmate may have an attorney represent him or her at
810 the hearing and, if the inmate is indigent, the court shall
811 appoint the office of the public defender or private counsel
812 pursuant to s. 27.40(1) to represent the inmate at the hearing.
813 An attorney representing the inmate shall have access to the
814 inmate and any records, including medical or mental health
815 records, which are relevant to the representation of the inmate.
816 ~~The order shall allow such treatment for a period not to exceed~~
817 ~~90 days from the date of the order. Unless the court is notified~~
818 ~~in writing that the inmate has provided express and informed~~
819 ~~consent in writing, that the inmate has been transferred to~~
820 ~~another institution of the department, or that the inmate is no~~
821 ~~longer in need of treatment, the warden shall, prior to the~~
822 ~~expiration of the initial 90-day order, petition the court for an~~
823 ~~order authorizing the continuation of treatment for another 90-~~
824 ~~day period. This procedure shall be repeated until the inmate~~
825 ~~provides consent or is no longer in need of treatment. Treatment~~
826 ~~may be continued pending a hearing after the filing of any~~
827 ~~petition.~~

828 (4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF
829 AN INMATE.--

830 (a) The hearing on the petition for involuntary treatment
831 shall be held within 5 days after the petition is filed and the
832 court may appoint a general or special magistrate to preside. The
833 inmate may testify or not, as he or she chooses, may cross-
834 examine witnesses testifying on behalf of the facility, and may
835 present his or her own witnesses. However, the court may waive

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836 the presence of the inmate at the hearing if such waiver is
837 consistent with the best interests of the inmate and the inmate's
838 counsel does not object. One of the inmate's physicians whose
839 opinion supported the petition shall appear as a witness at the
840 hearing.

841 (b)(e) At the hearing on the issue of whether the court
842 should authorize treatment for which an inmate has refused to
843 give express and informed consent, the court shall determine by
844 clear and convincing evidence whether the inmate is mentally ill
845 as defined in this chapter; whether such treatment is essential
846 to the care of the inmate; and whether the treatment is
847 experimental or presents an unreasonable risk of serious,
848 hazardous, or irreversible side effects. In arriving at the
849 substitute judgment decision, the court must consider at least
850 the following:

- 851 1. The inmate's expressed preference regarding treatment;
- 852 2. The probability of adverse side effects;
- 853 3. The prognosis for the inmate without treatment; and
- 854 4. The prognosis for the inmate with treatment.

855
856 ~~The inmate and the inmate's representative shall be provided with~~
857 ~~a copy of the petition and the date, time, and location of the~~
858 ~~hearing. The inmate may have an attorney represent him or her at~~
859 ~~the hearing, and, if the inmate is indigent, the court shall~~
860 ~~appoint the office of the public defender to represent him or her~~
861 ~~at the hearing. The inmate may testify or not, as he or she~~
862 ~~chooses, may cross-examine witnesses testifying on behalf of the~~
863 ~~facility, and may present his or her own witnesses.~~

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864 (c) An order authorizing involuntary treatment shall allow
865 such treatment for a period not to exceed 90 days following the
866 date of the order. Unless the court is notified in writing that
867 the inmate has provided express and informed consent in writing,
868 that the inmate has been transferred to another institution of
869 the department, or that the inmate is no longer in need of
870 treatment, the warden shall, prior to the expiration of the
871 initial 90-day order, petition the court for an order authorizing
872 the continuation of treatment for another 90-day period. This
873 procedure shall be repeated until the inmate provides express and
874 informed consent or is no longer in need of treatment. Treatment
875 may be continued pending a hearing after the timely filing of any
876 petition.

877 (5) PROCEDURE FOR EMERGENCY TREATMENT.--In an emergency
878 situation in which there is immediate danger to the health and
879 safety of an inmate or other inmates, emergency treatment may be
880 provided at a mental health treatment facility upon the written
881 order of a physician for a period not to exceed 48 hours,
882 excluding weekends and legal holidays. If, after the 48-hour
883 period, the inmate has not given express and informed consent to
884 the treatment initially refused, the warden shall, within 48
885 hours, excluding weekends and legal holidays, petition the
886 circuit court, in accordance with the procedures described in
887 this section, for an order authorizing the continued treatment of
888 the inmate. In the interim, treatment may be continued upon the
889 written order of a physician who has determined that the
890 emergency situation continues to present a danger to the safety
891 of the inmate or others. If an inmate must be isolated for mental
892 health purposes, that decision must be reviewed within 72 hours

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893 by a different psychological professional or a physician other
894 than the one making the original placement.

895 ~~(6)(d)~~ EMERGENCY TREATMENT.--In addition to the other above
896 provisions of this section for mental health treatment, when the
897 consent ~~permission~~ of the inmate cannot be obtained, the warden
898 of a mental health treatment facility, or his or her designated
899 representative, with the concurrence of the inmate's attending
900 physician, may authorize emergency surgical or nonpsychiatric
901 medical treatment if such treatment is deemed lifesaving or there
902 is a situation threatening serious bodily harm to the inmate.

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

909 Section 15. Section 945.49, Florida Statutes, is amended to
910 read:

911 945.49 Operation and administration.--

912 (1) ADMINISTRATION.--The department is authorized to
913 contract with the appropriate entities, agencies, persons, and
914 local governing bodies to provide mental health services pursuant
915 to ss. 945.40-945.49.

916 (2) RULES.--The department, in cooperation with the Mental
917 Health Program Office of the Department of Children and Family
918 Services, shall adopt rules necessary for administration of ss.
919 945.40-945.49 in accordance with chapter 120.

920 (3) ORIENTATION AND TRAINING.--Correctional officers
921 employed by a mental health treatment facility shall receive

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922 specialized training above and beyond that required for basic
923 certification pursuant to chapter 943. ~~Such training shall be in~~
924 ~~accordance with requirements of the Criminal Justice Standards~~
925 ~~and Training Commission.~~

926 (4) STATUS OF INMATE.--An inmate receiving mental health
927 treatment shall be subject to the same standards applied to other
928 inmates in the department, including, but not limited to,
929 consideration for parole, release by reason of gain-time
930 allowances as provided for in s. 944.291, and release by
931 expiration of sentence. ~~ADMINISTRATIVE LAW JUDGES.--One or more~~
932 ~~administrative law judges shall be assigned by the Division of~~
933 ~~Administrative Hearings to conduct hearings for continued~~
934 ~~placement.~~

935 Section 16. Paragraph (c) of subsection (3) of section
936 948.01, Florida Statutes, is amended to read:

937 948.01 When court may place defendant on probation or into
938 community control.--

939 (3) If, after considering the provisions of subsection (2)
940 and the offender's prior record or the seriousness of the
941 offense, it appears to the court in the case of a felony
942 disposition that probation is an unsuitable dispositional
943 alternative to imprisonment, the court may place the offender in
944 a community control program as provided in s. 948.10. Or, in a
945 case of prior disposition of a felony commitment, upon motion of
946 the offender or the department or upon its own motion, the court
947 may, within the period of its retained jurisdiction following
948 commitment, suspend the further execution of the disposition and
949 place the offender in a community control program upon such terms
950 as the court may require. The court may consult with a local

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951 offender advisory council pursuant to s. 948.90 with respect to
952 the placement of an offender into community control. Not later
953 than 3 working days before the hearing on the motion, the
954 department shall forward to the court all relevant material on
955 the offender's progress while in custody. If this sentencing
956 alternative to incarceration is utilized, the court shall:

957 ~~(c) Require the department to provide notifications~~
958 ~~pursuant to s. 948.10(7).~~

959 Section 17. Section 948.10, Florida Statutes, is amended to
960 read:

961 948.10 Community control programs.--

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

975 (a) Probation violators charged with technical violations
976 or misdemeanor violations.

977 (b) Parole violators charged with technical violations or
978 misdemeanor violations.

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

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

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

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

987
988 ~~Nothing in this subsection prohibits placement of certain inmates~~
989 ~~on community control pursuant to s. 947.1747. For the purposes of~~
990 ~~this subsection, a forcible felony does not include manslaughter~~
991 ~~or burglary.~~

992 (2)~~(3)~~ The department shall commit not less than 10 percent
993 of the parole and probation field staff and supporting resources
994 to the operation of the community control program. Caseloads
995 should be restricted to a maximum of 25 cases per officer in
996 order to ensure an adequate level of staffing. Community control
997 is an individualized program in which the offender is restricted
998 to noninstitutional quarters or restricted to his or her own
999 residence subject to an authorized level of limited freedom.

1000 ~~(4) The department shall develop and implement procedures~~
1001 ~~to diagnose offenders during the prison intake process in order~~
1002 ~~to recommend to the sentencing courts, during the period of~~
1003 ~~retained jurisdiction, suitable candidates for placement in a~~
1004 ~~program of community control.~~

1005 ~~(5) The Department of Corrections shall develop, or shall~~
1006 ~~contract for the development of, an implementation manual, a~~

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1007 ~~resource directory, and training programs for implementing~~
1008 ~~community control programs.~~

1009 ~~(a)1. The community control implementation manual shall~~
1010 ~~include, but shall not be limited to, an explanation of the types~~
1011 ~~of offenders who should be placed in community control programs,~~
1012 ~~procedures for diagnosing offenders, objectives and goals of such~~
1013 ~~placements, examples of alternative placements based upon the~~
1014 ~~experience of other states, and instruction in developing an~~
1015 ~~individualized program for each offender.~~

1016 ~~2. An offender's individualized program shall include~~
1017 ~~diagnosis of treatment needs in the areas of education, substance~~
1018 ~~abuse, and mental health, as well as community sanction~~
1019 ~~provisions, restitution and community service provisions,~~
1020 ~~rehabilitation objectives and programs, and a schedule for~~
1021 ~~periodic review and reevaluation of such individualized programs.~~
1022 ~~Individualized programs for offenders who committed controlled~~
1023 ~~substance violations shall include provision for the conduct of~~
1024 ~~random substance abuse testing intermittently throughout the term~~
1025 ~~of supervision, upon the direction of the correctional probation~~
1026 ~~officer as defined in s. 943.10(3).~~

1027 ~~(b) The community control resource directory shall include,~~
1028 ~~but shall not be limited to, for each circuit in the state, an~~
1029 ~~identification and description of community resources that are~~
1030 ~~available for the implementation of community control programs,~~
1031 ~~which resources include the following:~~

1032 ~~1. The name, address, phone, county location, capacity, and~~
1033 ~~cost.~~

1034 ~~2. Client eligibility and characteristics which prohibit~~
1035 ~~acceptance.~~

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1036 ~~3. The objectives of the program.~~

1037 ~~4. The primary source of referrals.~~

1038 ~~5. The average length of stay.~~

1039 ~~6. The services offered.~~

1040 ~~(c) Training programs shall be provided for correctional~~

1041 ~~field staff, local offender advisory councils, and others~~

1042 ~~responsible for the implementation of community control programs.~~

1043 ~~(6) The Florida Court Education Council and the office of~~

1044 ~~the State Courts Administrator shall coordinate the development~~

1045 ~~and implementation of a reference manual, directory, and training~~

1046 ~~programs for judges in relation to community control disposition.~~

1047 ~~(7) Upon written request, when an offender is placed on~~

1048 ~~community control, the department shall notify:~~

1049 ~~(a) The original arresting law enforcement agency.~~

1050 ~~(b) The sheriff or chief law enforcement officer of the~~

1051 ~~county in which the offender is to be placed.~~

1052 ~~(c) The chief officer of any local law enforcement agency~~

1053 ~~within whose jurisdiction the offender is to be placed.~~

1054 ~~(d) The victim of the offense, the victim's parent or~~

1055 ~~guardian if the victim is a minor, the lawful representative of~~

1056 ~~the victim or the victim's parent or guardian if the victim is a~~

1057 ~~minor, or the next of kin if the victim is a homicide victim.~~

1058

1059 ~~Such notification shall include the name and street address of~~

1060 ~~the offender, the length of supervision, and the nature of the~~

1061 ~~offense. Update notification must be provided with respect to~~

1062 ~~violation of the terms or conditions of the placement.~~

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1063 ~~(8) If an offender is sentenced to community control by the~~
1064 ~~court and the offender is ineligible to be placed on community~~
1065 ~~control as provided in subsection (2), the department shall:~~

1066 ~~(a) Review and verify whether an ineligible offender was~~
1067 ~~placed on community control.~~

1068 ~~(b) Within 30 days after receipt of the order, notify the~~
1069 ~~sentencing judge, the state attorney, and the Attorney General~~
1070 ~~that the offender was ineligible for placement on community~~
1071 ~~control.~~

1072 ~~(c) Provide a quarterly report to the chief judge and the~~
1073 ~~state attorney of each circuit citing the number of ineligible~~
1074 ~~offenders placed on community control within that circuit.~~

1075 ~~(d) Provide an annual report to the Governor, the President~~
1076 ~~of the Senate, the Speaker of the House of Representatives, and~~
1077 ~~the Chief Justice of the Supreme Court on the placement of~~
1078 ~~ineligible offenders on community control in order to assist in~~
1079 ~~preparing judicial education programs or for any other purpose.~~

1080 (3)~~(9)~~ Procedures governing violations of community control
1081 shall be the same as those described in s. 948.06 with respect to
1082 probation.

1083 (4)~~(10)~~ Upon completion of the sanctions imposed in the
1084 community control plan before the expiration of the term ordered
1085 by the court, the department may petition the court to discharge
1086 the offender from community control supervision or to return the
1087 offender to a program of regular probation supervision. In
1088 considering the petition, the court should recognize the limited
1089 staff resources committed to the community control program, the
1090 purpose of the program, and the offender's successful compliance
1091 with the conditions set forth in the order of the court.

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1092 ~~(11) The Department of Corrections shall:~~

1093 ~~(a) Develop and maintain a weighted statewide caseload~~

1094 ~~equalization strategy designed to ensure that high-risk offenders~~

1095 ~~receive the highest level of supervision; and~~

1096 ~~(b) Develop and implement a supervision risk assessment~~

1097 ~~instrument for the community control population which is similar~~

1098 ~~to the probation risk assessment instrument established by the~~

1099 ~~National Institute of Justice.~~

1100 (5)~~(12)~~ In its annual report to the Governor, the President

1101 of the Senate, and the Speaker of the House of Representatives

1102 under s. 20.315(5), the department shall include a detailed

1103 analysis of the community control program and the department's

1104 specific efforts to protect the public from offenders placed on

1105 community control. The analysis must include, but need not be

1106 limited to, specific information on the department's ability to

1107 meet minimum officer-to-offender contact standards, the number of

1108 crimes committed by offenders on community control, and the level

1109 of community supervision provided.

1110 Section 18. Subsections (1) and (2) of section 958.04,

1111 Florida Statutes, are amended to read:

1112 958.04 Judicial disposition of youthful offenders.--

1113 (1) The court may sentence as a youthful offender any

1114 person:

1115 (a) Who is at least 18 years of age or who has been

1116 transferred for prosecution to the criminal division of the

1117 circuit court pursuant to chapter 985;

1118 (b) Who is found guilty of or who has tendered, and the

1119 court has accepted, a plea of nolo contendere or guilty to a

1120 crime that ~~which~~ is, under the laws of this state, a felony if

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1121 the offender is younger than 21 years of age at the time sentence
1122 is imposed ~~such crime was committed before the defendant's 21st~~
1123 ~~birthday~~; and

1124 (c) Who has not previously been classified as a youthful
1125 offender under the provisions of this act; however, a ~~no~~ person
1126 who has been found guilty of a capital or life felony may not be
1127 sentenced as a youthful offender under this act.

1128 (2) In lieu of other criminal penalties authorized by law
1129 and notwithstanding any imposition of consecutive sentences, the
1130 court shall dispose of the criminal case as follows:

1131 (a) The court may place a youthful offender under
1132 supervision on probation or in a community control program, with
1133 or without an adjudication of guilt, under such conditions as the
1134 court may lawfully impose for a period of not more than 6 years.
1135 Such period of supervision may ~~shall~~ not exceed the maximum
1136 sentence for the offense for which the youthful offender was
1137 found guilty.

1138 (b) The court may impose a period of incarceration as a
1139 condition of probation or community control, which period of
1140 incarceration shall be served in ~~either~~ a county facility, a
1141 department probation and restitution center, or a community
1142 residential facility that ~~which~~ is owned and operated by any
1143 public or private entity providing such services. A ~~No~~ youthful
1144 offender may not be required to serve a period of incarceration
1145 in a community correctional center as defined in s. 944.026.
1146 Admission to a department facility or center shall be contingent
1147 upon the availability of bed space and shall take into account
1148 the purpose and function of such facility or center. Placement in
1149 such a facility or center may ~~shall~~ not exceed 364 days.

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1150 (c) The court may impose a split sentence whereby the
1151 youthful offender is to be placed on probation or community
1152 control upon completion of any specified period of incarceration;
1153 however, if the incarceration period is to be served in a
1154 department facility other than a probation and restitution center
1155 or community residential facility, such period shall be for not
1156 less than 1 year or more than 4 years. The period of probation or
1157 community control shall commence immediately upon the release of
1158 the youthful offender from incarceration. The period of
1159 incarceration imposed or served and the period of probation or
1160 community control, when added together, may ~~shall~~ not exceed 6
1161 years.

1162 (d) The court may commit the youthful offender to the
1163 custody of the department for a period of not more than 6 years,
1164 provided that any such commitment may ~~shall~~ not exceed the
1165 maximum sentence for the offense for which the youthful offender
1166 has been convicted. Successful participation in the youthful
1167 offender program by an offender who is sentenced as a youthful
1168 offender by the court pursuant to this section, or is classified
1169 as such by the department, may result in a recommendation to the
1170 court, by the department, for a modification or early termination
1171 of probation, community control, or the sentence at any time
1172 prior to the scheduled expiration of such term. The department
1173 shall adopt rules defining criteria for successful participation
1174 in the youthful offender program which shall include program
1175 participation, academic and vocational training, and satisfactory
1176 adjustment. When a modification of the sentence results in the
1177 reduction of a term of incarceration, the court may impose a term
1178 of probation or community control which, when added to the term

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1179 of incarceration, may ~~shall~~ not exceed the original sentence
1180 imposed.

1181 Section 19. Section 958.11, Florida Statutes, is amended to
1182 read:

1183 958.11 Designation of institutions and programs for
1184 youthful offenders; assignment from youthful offender
1185 institutions and programs.--

1186 (1) The department shall by rule designate separate
1187 institutions and programs for youthful offenders and shall employ
1188 and utilize personnel specially qualified by training and
1189 experience to operate all such institutions and programs for
1190 youthful offenders. Youthful offenders who are at least 14 years
1191 of age but who have not yet reached the age of 19 years at the
1192 time of reception shall be separated from youthful offenders who
1193 are 19 years of age or older, except that if the population of
1194 the facilities designated for 14-year-old to 18-year-old youthful
1195 offenders exceeds 100 percent of lawful capacity, the department
1196 may assign 18-year-old youthful offenders to the 19-24 age group
1197 facility.

1198 (2) Youthful offender institutions and programs shall
1199 contain only those youthful offenders sentenced as such by a
1200 court or classified as such by the department, pursuant to the
1201 requirements of subsections (4) and (6), except that under
1202 special circumstances select adult offenders may be assigned to
1203 youthful offender institutions. Female youthful offenders of all
1204 ages may continue to be housed together at those institutions
1205 designated by department rule ~~Florida Correctional Institution~~
1206 ~~and Broward Correctional Institution~~ until such time as
1207 institutions for a female youthful offenders are offender

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1208 ~~institution is~~ established or adapted to allow for separation by
1209 age and to accommodate all custody classifications.

1210 (3) The department may assign a youthful offender to a
1211 facility in the state correctional system which is not designated
1212 for the care, custody, control, and supervision of youthful
1213 offenders or an age group only in the following circumstances:

1214 (a) If the youthful offender is convicted of a new crime
1215 which is a felony under the laws of this state.

1216 (b) If the youthful offender becomes such a serious
1217 management or disciplinary problem resulting from serious
1218 violations of the rules of the department that his or her
1219 original assignment would be detrimental to the interests of the
1220 program and to other inmates committed thereto.

1221 (c) If the youthful offender needs medical treatment,
1222 health services, or other specialized treatment otherwise not
1223 available at the youthful offender facility.

1224 (d) If the department determines that the youthful offender
1225 should be transferred outside of the state correctional system,
1226 as provided by law, for services not provided by the department.

1227 (e) If bed space is not available in a designated community
1228 residential facility, the department may assign a youthful
1229 offender to a community residential facility, provided that the
1230 youthful offender is separated from other offenders insofar as is
1231 practical.

1232 (f) If the youthful offender was originally assigned to a
1233 facility designated for 14-year-old to 18-year-old youthful
1234 offenders, but subsequently reaches the age of 19 years, the
1235 department may retain the youthful offender in the facility if

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1236 the department determines that it is in the best interest of the
1237 youthful offender and the department.

1238 (g) If the department determines that a youthful offender
1239 originally assigned to a facility designated for the 19-24 age
1240 group is mentally or physically vulnerable by such placement, the
1241 department may reassign a youthful offender to a facility
1242 designated for the 14-18 age group if the department determines
1243 that a reassignment is necessary to protect the safety of the
1244 youthful offender or the institution.

1245 (h) If the department determines that a youthful offender
1246 originally assigned to a facility designated for the 14-18 age
1247 group is disruptive, incorrigible, or uncontrollable, the
1248 department may reassign a youthful offender to a facility
1249 designated for the 19-24 age group if the department determines
1250 that a reassignment would best serve the interests of the
1251 youthful offender and the department.

1252 (4) The department ~~Office of the Assistant Secretary for~~
1253 ~~Youthful Offenders~~ shall continuously screen all institutions,
1254 facilities, and programs for any inmate who meets the eligibility
1255 requirements for youthful offender designation specified in s.
1256 958.04(1)(a) and (c) whose age does not exceed 24 years and whose
1257 total length of sentence does not exceed 10 years, and the
1258 department may classify and assign as a youthful offender any
1259 inmate who meets the criteria of this subsection.

1260 (5) The department ~~Population Movement and Control~~
1261 ~~Coordinator~~ shall coordinate all youthful offender assignments or
1262 transfers and shall ~~consult with the Office of the Assistant~~
1263 ~~Secretary for Youthful Offenders. The Office of the Assistant~~
1264 ~~Secretary for Youthful Offenders shall~~ review and maintain access

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1265 to full and complete documentation and substantiation of all such
1266 assignments or transfers of youthful offenders to or from
1267 facilities in the state correctional system which are not
1268 designated for their care, custody, and control, except
1269 assignments or transfers made pursuant to paragraph (3)(c).

1270 (6) The department may assign to a youthful offender
1271 facility any inmate, except a capital or life felon, whose age
1272 does not exceed 19 years but who does not otherwise meet the
1273 criteria of this section, if the department ~~Assistant Secretary~~
1274 ~~for Youthful Offenders~~ determines that such inmate's mental or
1275 physical vulnerability would substantially or materially
1276 jeopardize his or her safety in a nonyouthful offender facility.
1277 Assignments made under this subsection shall be included in the
1278 department's annual report.

1279 Section 20. Section 958.12, Florida Statutes, is amended to
1280 read:

1281 958.12 Participation in certain activities required.--

1282 (1) A youthful offender shall be required to participate in
1283 work assignments, and in career, academic, counseling, and other
1284 rehabilitative programs in accordance with this section,
1285 including, but not limited to:

1286 (a) All youthful offenders may be required, as appropriate,
1287 to participate in:

- 1288 1. Reception and orientation.
- 1289 2. Evaluation, needs assessment, and classification.
- 1290 3. Educational programs.
- 1291 4. Career and job training.
- 1292 5. Life and socialization skills training, including
1293 anger/aggression control.

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- 1294 6. Prerelease orientation and planning.
1295 7. Appropriate transition services.
1296 (b) In addition to the requirements in paragraph (a), the
1297 department shall make available:
1298 1. Religious services and counseling.
1299 2. Social services.
1300 3. Substance abuse treatment and counseling.
1301 4. Psychological and psychiatric services.
1302 5. Library services.
1303 6. Medical and dental health care.
1304 7. Athletic, recreational, and leisure time activities.
1305 8. Mail and visiting privileges.
1306

1307 Income derived by a youthful offender from participation in such
1308 activities may be used, in part, to defray a portion of the costs
1309 of his or her incarceration or supervision; to satisfy
1310 preexisting obligations; to pay fines, counseling fees, or other
1311 costs lawfully imposed; or to pay restitution to the victim of
1312 the crime for which the youthful offender has been convicted in
1313 an amount determined by the sentencing court. Any such income not
1314 used for such reasons or not used as provided in s. 946.513 or s.
1315 958.09 shall be placed in a bank account for use by the youthful
1316 offender upon his or her release.

1317 (2) A comprehensive transition and postrelease plan shall
1318 be developed for the youthful offender by a team consisting of a
1319 transition assistance officer, a classification officer, an
1320 educational representative, a health services administrator, a
1321 probation and parole officer, and the youthful offender.

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1322 ~~(3) A youthful offender shall be visited by a probation and~~
1323 ~~parole officer prior to the offender's release from incarceration~~
1324 ~~in order to assist in the youthful offender's transition.~~

1325 (3)(4) Community partnerships shall be developed by the
1326 department to provide postrelease community resources. The
1327 department shall develop partnerships with entities that ~~which~~
1328 include, but are not limited to, state agencies ~~the Department of~~
1329 ~~Labor and Employment Security, the Department of Children and~~
1330 ~~Family Services,~~ community health agencies, private agencies, and
1331 school systems.

1332 (4)(5) If supervision of the youthful offender after
1333 release from incarceration is required, this ~~and~~ may be
1334 accomplished in a residential or nonresidential program or
1335 intensive day treatment, or through supervision by a correctional
1336 probation and parole officer.

1337 Section 21. This act shall take effect October 1, 2008.