

FOR CONSIDERATION By the Committee on Criminal Justice

591-03059-08

20087024__

1 A bill to be entitled

2 An act relating to the Department of Corrections; amending
3 s. 27.51, F.S.; providing for the public defender to
4 represent an indigent person who is involuntarily placed
5 or treated in an inmate mental health treatment facility;
6 amending s. 921.187, F.S.; deleting certain provisions
7 limiting circumstances under which an offender may be
8 placed in community control; amending s. 940.061, F.S.;
9 specifying that the Department of Corrections meets its
10 statutory obligation to assist released offenders with
11 completing the application for the restoration of civil
12 rights by sending an electronic list to the Parole
13 Commission each month of those inmates and offenders who
14 were released from incarceration or terminated from
15 supervision during the preceding month; amending s.
16 943.16, F.S.; eliminating provisions requiring that a law
17 enforcement officer reimburse the employing agency for
18 wages and benefits paid by the employing agency if the
19 officer terminates employment before the end of a 2-year
20 commitment period; eliminating wages and benefits from the
21 costs that employing agencies may recover; eliminating the
22 definition of the term "academy training period"; amending
23 s. 944.1905, F.S.; authorizing the department to assign an
24 offender sentenced to death to a facility for youthful
25 offenders until the offender reaches a specified age;
26 deleting provisions requiring that certain offenders
27 younger than 18 years of age be housed and provided
28 certain services separately from older offenders or placed
29 in a facility for youthful offenders; amending s. 944.293,

591-03059-08

20087024__

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

591-03059-08

20087024__

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

591-03059-08

20087024__

88 | of the Criminal Justice Standards and Training Commission;
89 | amending s. 948.01, F.S.; deleting certain provisions
90 | limiting circumstances under which an offender may be
91 | placed in community control; amending s. 948.10, F.S.;
92 | deleting a requirement that community control programs and
93 | manuals be developed in consultation with the Florida
94 | Conference of Circuit Court Judges and the State Courts
95 | Administrator; eliminating provisions requiring the
96 | Department of Corrections to commit a specified amount of
97 | resources to the community control program; deleting
98 | requirements for the department in developing and
99 | implementing community control programs, resource
100 | directories, and training programs; deleting a requirement
101 | for the Florida Court Education Council and the State
102 | Courts Administrator to coordinate certain resources for
103 | judges pertaining to community control; eliminating
104 | provisions governing review and notice by the department
105 | of offenders ineligible for community control and
106 | requiring the department to develop a caseload
107 | equalization strategy; deleting certain reporting
108 | requirements for the department; amending s. 958.04, F.S.;
109 | authorizing the court to sentence a person as a youthful
110 | offender if the offender is younger than 21 years of age
111 | at the time sentence is imposed; requiring the Department
112 | of Corrections to adopt by rule criteria to define
113 | successful participation in the youthful offender program;
114 | amending s. 958.11, F.S.; removing the specific
115 | designation of youthful offender facilities for housing
116 | female offenders; revising requirements for the department

591-03059-08

20087024__

117 with respect to assigning or transferring youthful
118 offenders; removing references to the Assistant Secretary
119 for Youthful Offenders; amending s. 958.12, F.S.; removing
120 the requirement for a youthful offender to be visited by a
121 probation and parole officer before release; removing the
122 requirement for the department to develop community
123 partnerships with the Department of Labor and Employment
124 Security and the Department of Children and Family
125 Services; providing legislative findings with respect to
126 the need to consolidate certain activities within the
127 correctional system; requiring the Parole Commission to
128 transfer its information technology functions to the
129 Department of Corrections; specifying the activities to be
130 included within the transfer; requiring the commission and
131 department to develop and implement a written plan;
132 providing an effective date.

133
134 Be It Enacted by the Legislature of the State of Florida:

135
136 Section 1. Subsection (1) of section 27.51, Florida
137 Statutes, is amended to read:

138 27.51 Duties of public defender.--

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

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

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

144 1. A misdemeanor authorized for prosecution by the state
145 attorney;

591-03059-08

20087024__

- 146 2. A violation of chapter 316 punishable by imprisonment;
147 3. Criminal contempt; or
148 4. A violation of a special law or county or municipal
149 ordinance ancillary to a state charge, or if not ancillary to a
150 state charge, only if the public defender contracts with the
151 county or municipality to provide representation pursuant to ss.
152 27.54 and 125.69.

153

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

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

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

591-03059-08

20087024__

174 (f) Is appealing a matter in a case arising under
175 paragraphs (a)-(d).

176 Section 2. Subsections (2), (3), and (4) of section
177 921.187, Florida Statutes, are amended to read:

178 921.187 Disposition and sentencing; alternatives;
179 restitution.--

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

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

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

185
186 ~~Nothing in this subsection prohibits placement of certain inmates~~
187 ~~on community control pursuant to s. 947.1747. For purposes of~~
188 ~~this subsection, a forcible felony does not include manslaughter~~
189 ~~or burglary.~~

190 (2)~~(3)~~ In addition to any other penalty provided by law for
191 an offense enumerated in s. 775.0877(1)(a)-(n), if the offender
192 is convicted of criminal transmission of HIV pursuant to s.
193 775.0877, the court may sentence the offender to criminal
194 quarantine community control as described in s. 948.001.

195 (3)~~(4)~~ The court shall require an offender to make
196 restitution under s. 775.089, unless the court finds clear and
197 compelling reasons not to order such restitution. If the court
198 does not order restitution, or orders restitution of only a
199 portion of the damages, as provided in s. 775.089, the court
200 shall state the reasons on the record in detail. An order
201 requiring an offender to make restitution to a victim under s.
202 775.089 does not remove or diminish the requirement that the

591-03059-08

20087024__

203 court order payment to the Crimes Compensation Trust Fund under
204 chapter 960.

205 Section 3. Section 940.061, Florida Statutes, is amended to
206 read:

207 940.061 Informing persons about executive clemency and
208 restoration of civil rights.--The Department of Corrections shall
209 inform and educate inmates and offenders on community supervision
210 about the restoration of civil rights and assist eligible inmates
211 and offenders on community supervision with the completion of the
212 application for the restoration of civil rights. The department
213 may meet its obligation to assist inmates and offenders with
214 completing the application for the restoration of civil rights by
215 electronically providing to the Parole Commission each month a
216 list of inmates who were released from incarceration and
217 offenders who were terminated from supervision during the
218 preceding month.

219 Section 4. Section 943.16, Florida Statutes, is amended to
220 read:

221 943.16 Payment of tuition or officer certification
222 examination fee by employing agency; reimbursement of tuition,
223 other course expenses, wages, and benefits.--

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

227 (2) ~~(a)~~ A trainee who attends such approved training program
228 at the expense of an employing agency must remain in the
229 employment or appointment of such employing agency for a period
230 of not less than 2 years after graduation from the basic recruit
231 training program. If employment or appointment is terminated on

591-03059-08

20087024__

232 the trainee's own initiative within 2 years, he or she shall
233 reimburse the employing agency for the full cost of his or her
234 tuition and, other course expenses, ~~and additional amounts as~~
235 ~~provided in paragraph (b).~~

236 ~~(b) In addition to reimbursement for the full cost of~~
237 ~~tuition and other course expenses, a trainee terminating~~
238 ~~employment as provided in paragraph (a) shall reimburse the~~
239 ~~employing agency for the trainee's wages and benefits paid by the~~
240 ~~employing agency during the academy training period according to~~
241 ~~the following schedule:~~

242 ~~1. For a trainee terminating employment within 6 months of~~
243 ~~graduation from the basic recruit training program, the full~~
244 ~~amount of wages and benefits paid during the academy training~~
245 ~~period.~~

246 ~~2. For a trainee terminating employment within 6 months and~~
247 ~~1 day to 12 months of graduation from the basic recruit training~~
248 ~~program, an amount equal to three-fourths of the full amount of~~
249 ~~wages and benefits paid during the academy training period.~~

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

254 ~~4. For a trainee terminating employment within 18 months~~
255 ~~and 1 day to 24 months of graduation from the basic recruit~~
256 ~~training program, an amount equal to one-fourth of the full~~
257 ~~amount of wages and benefits paid during the academy training~~
258 ~~period.~~

591-03059-08

20087024__

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

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

269 (5) For purposes of this section, ~~"academy training period"~~
270 ~~means the period of time that a trainee is attending an approved~~
271 ~~basic recruit training program in a law enforcement or~~
272 ~~correctional officer academy class for purposes of obtaining~~
273 ~~certification pursuant to this chapter, until the date of~~
274 ~~graduation from such class.~~ the term "other course expenses"
275 includes the cost of meals.

276 (6) This section does not apply to trainees who terminate
277 employment with the employing agency and resign their
278 certification upon termination in order to obtain employment for
279 which certification under this chapter is not required. Further,
280 this section does not apply to trainees attending auxiliary
281 officer training.

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

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

591-03059-08

20087024__

288 944.1905 Initial inmate classification; inmate
289 reclassification.--The Department of Corrections shall classify
290 inmates pursuant to an objective classification scheme. The
291 initial inmate classification questionnaire and the inmate
292 reclassification questionnaire must cover both aggravating and
293 mitigating factors.

294 (5) (a) Notwithstanding any other provision of this section,
295 the department shall assign to facilities housing youthful
296 offenders ~~specific correctional facilities~~ all inmates who are
297 less than 18 years of age and who are not eligible for assignment
298 ~~and have not been assigned~~ to a facility for youthful offenders,
299 with the exception of those who have received a sentence of
300 death. Such an inmate shall be assigned to a facility for
301 youthful offenders until the inmate is 18 years of age. At the
302 discretion of the department, an inmate may be housed in a
303 facility for youthful offenders until the inmate is 21 years of
304 age. Any such inmate who is less than 18 years of age shall be
305 housed in a dormitory that is separate from inmates who are 18
306 years of age or older. Furthermore, the department shall provide
307 any food service, education, and recreation for such inmate
308 separately from inmates who are 18 years of age or older.

309 ~~(b) Notwithstanding the requirements of s. 958.11, any~~
310 ~~inmate who is less than 18 years of age, who was 15 years of age~~
311 ~~or younger at the time of his or her offense, and who has no~~
312 ~~prior juvenile adjudication must be placed in a facility for~~
313 ~~youthful offenders until the inmate is 18 years of age. At the~~
314 ~~discretion of the department, such an inmate may be placed in a~~
315 ~~facility for youthful offenders until the inmate is 21 years of~~
316 ~~age.~~

591-03059-08

20087024__

317 ~~(b)(e)~~ Any inmate who is assigned to a facility under
318 paragraph (a) is subject to the provisions of s. 958.11 regarding
319 facility assignments, and ~~or paragraph (b)~~ shall be removed and
320 reassigned to the general inmate population if his or her
321 behavior threatens the safety of other inmates or correctional
322 staff.

323 Section 6. Section 944.293, Florida Statutes, is amended to
324 read:

325 944.293 Initiation of restoration of civil rights.--With
326 respect to those persons convicted of a felony, the following
327 procedure shall apply: Prior to the time an offender is
328 discharged from supervision, an authorized agent of the
329 department shall obtain from the Governor the necessary
330 application and other forms required for the restoration of civil
331 rights. The authorized agent shall assist the offender in
332 completing these forms and shall ensure that the application and
333 all necessary material are forwarded to the Governor before the
334 offender is discharged from supervision. The department may meet
335 its obligation to assist offenders in completing the application
336 for the restoration of civil rights by electronically providing
337 to the Parole Commission each month a list of offenders who were
338 released from incarceration or terminated from supervision during
339 the preceding month.

340 Section 7. Section 944.47, Florida Statutes, is amended to
341 read:

342 944.47 Introduction, removal, or possession of certain
343 articles unlawful; penalty.--

344 (1)(a) Except through regular channels as authorized by the
345 officer in charge of the correctional institution, it is unlawful

591-03059-08

20087024__

346 to introduce into or upon the grounds of any state correctional
347 institution, or to take or attempt to take or send or attempt to
348 send therefrom, any of the following articles which are hereby
349 declared to be contraband for the purposes of this section, to
350 wit:

351 1. Any written or recorded communication or any currency or
352 coin given or transmitted, or intended to be given or
353 transmitted, to any inmate of any state correctional institution.

354 2. Any article of food or clothing given or transmitted, or
355 intended to be given or transmitted, to any inmate of any state
356 correctional institution.

357 3. Any intoxicating beverage or beverage which causes or
358 may cause an intoxicating effect.

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

362 5. Any firearm or weapon of any kind or any explosive
363 substance.

364 6. Any cellular telephone or other portable communication
365 device intentionally and unlawfully introduced inside the secure
366 perimeter of any state correctional institution without prior
367 authorization or consent from the officer in charge of such
368 correctional institution. As used in this subparagraph, the term
369 "portable communication device" means any device carried, worn,
370 or stored which is designed or intended to receive or transmit
371 verbal or written messages, access or store data, or connect
372 electronically to the Internet or any other electronic device,
373 and which allows communications in any form. Such devices
374 include, but are not limited to, portable two-way pagers, hand-

591-03059-08

20087024__

375 held radios, cellular telephones, Blackberry-type devices,
376 personal digital assistants or PDA's, laptop computers, or any
377 components of these devices which are intended to be used to
378 assemble such devices. The term also includes any new technology
379 that is developed for similar purposes. Excluded from this
380 definition is any device having communication capabilities which
381 has been approved or issued by the department for investigative
382 or institutional security purposes or for conducting other state
383 business.

384 (b) It is unlawful to transmit or attempt to transmit to,
385 or cause or attempt to cause to be transmitted to or received by,
386 any inmate of any state correctional institution any article or
387 thing declared by this subsection to be contraband, at any place
388 which is outside the grounds of such institution, except through
389 regular channels as authorized by the officer in charge of such
390 correctional institution.

391 (c) It is unlawful for any inmate of any state correctional
392 institution or any person while upon the grounds of any state
393 correctional institution to be in actual or constructive
394 possession of any article or thing declared by this section to be
395 contraband, except as authorized by the officer in charge of such
396 correctional institution.

397 (2) A person who violates any provision of this section as
398 it pertains to an article of contraband described in subparagraph
399 (1)(a)1., ~~or~~ subparagraph (1)(a)2., or subparagraph (1)(a)6.
400 commits ~~is guilty of~~ a felony of the third degree, punishable as
401 provided in s. 775.082, s. 775.083, or s. 775.084. In all other
402 cases, a violation of a provision of this section constitutes a

591-03059-08

20087024__

403 felony of the second degree, punishable as provided in s.
404 775.082, s. 775.083, or s. 775.084.

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

407 945.41 Legislative intent of ss. 945.40-945.49.--It is the
408 intent of the Legislature that mentally ill inmates in the
409 custody of the Department of Corrections receive evaluation and
410 appropriate treatment for their mental illness through a
411 continuum of services. It is further the intent of the
412 Legislature that:

413 (1) Inmates in the custody of the department who have
414 mental illnesses that require hospitalization and intensive
415 psychiatric inpatient treatment or care receive appropriate
416 treatment or care in Department of Corrections mental health
417 treatment facilities designated for that purpose. ~~The department~~
418 ~~shall contract with the Department of Children and Family~~
419 ~~Services for the provision of mental health services in any~~
420 ~~departmental mental health treatment facility.~~ The Department of
421 Corrections shall provide mental health services to inmates
422 committed to it and may contract with any entities, persons, or
423 agencies qualified to provide such services.

424 (5) The department may designate a mental health treatment
425 facility for adult, and youthful, and female offenders or may
426 contract with other appropriate entities, persons, or agencies
427 for such services.

428 Section 9. Section 945.42, Florida Statutes, is amended to
429 read:

430 945.42 Definitions; ss. 945.40-945.49.--As used in ss.
431 945.40-945.49, the following terms shall have the meanings

591-03059-08

20087024__

432 ascribed to them, unless the context shall clearly indicate
433 otherwise:

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

435 (2) "Crisis stabilization care" means a level of care that
436 is less restrictive and intense than care provided in a mental
437 health treatment facility, that includes a broad range of
438 evaluation and treatment services provided within a highly
439 structured setting or locked residential setting, and that is
440 intended for inmates who are experiencing acute emotional
441 distress and who cannot be adequately evaluated and treated in a
442 transitional care unit or infirmary isolation management room.
443 Such treatment is also more intense than treatment provided in a
444 transitional care unit and is devoted principally toward rapid
445 stabilization of acute symptoms and conditions.

446 (3)~~(2)~~ "Department" means the Department of Corrections.

447 (4)~~(3)~~ "Director" means the Director for Mental Health
448 Services of the Department of Corrections or his or her designee.

449 (5)~~(4)~~ "In immediate need of care and treatment" means that
450 an inmate is apparently mentally ill and is not able to be
451 appropriately cared for in the institution where he or she ~~the~~
452 ~~inmate~~ is confined and that, but for being isolated in a more
453 restrictive and secure housing environment, because of the
454 apparent mental illness:

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

591-03059-08

20087024__

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

465 (b)1. The inmate has refused voluntary placement for
466 treatment at a mental health treatment facility after sufficient
467 and conscientious explanation and disclosure of the purpose of
468 placement; or

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

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

474 (6) (5) "In need of care and treatment" means that an inmate
475 has a mental illness for which inpatient services in a mental
476 health treatment facility are necessary and that, but for being
477 isolated in a more restrictive and secure housing environment,
478 because of the ~~which~~ mental illness:

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

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

488 (b)1. The inmate has refused voluntary placement for
489 treatment at a mental health treatment facility after sufficient

591-03059-08

20087024__

490 and conscientious explanation and disclosure of the purpose of
491 placement; or

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

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

497 (7)-(6) "Inmate" means any person committed to the custody
498 of the Department of Corrections.

499 (8)-(7) "Mental health treatment facility" means the
500 Corrections Mental Health Institution and any extended treatment
501 or hospitalization-level unit within the corrections system which
502 either institution that the Assistant Secretary for Health
503 Services of the department specifically designates by rule to
504 provide acute psychiatric care and which may include involuntary
505 treatment and therapeutic intervention at the hospital level, in
506 contrast to less intensive levels of care such as outpatient
507 mental health care, transitional mental health care, or crisis
508 stabilization care.

509 (9)-(8) "Mentally ill" means an impairment of the mental or
510 emotional processes, of the ability to exercise conscious control
511 of one's actions, or of the ability to perceive or understand
512 reality or to understand, which impairment substantially
513 interferes with a person's ability to meet the ordinary demands
514 of living, regardless of etiology, except that, for the purposes
515 of transfer of an inmate to a mental health treatment facility,
516 the term does not include retardation or developmental disability
517 as defined in chapter 393, simple intoxication, or conditions
518 manifested only by antisocial behavior or substance abuse drug

591-03059-08

20087024__

519 addiction. However, an individual who is mentally retarded or
520 developmentally disabled may also have a mental illness.

521 (10)-(9) "Psychiatrist" means a medical practitioner
522 licensed pursuant to chapter 458 or chapter 459 who has primarily
523 diagnosed and treated nervous and mental disorders for a period
524 of not less than 3 years inclusive of psychiatric residency.

525 (11)-(10) "Psychologist" means a behavioral practitioner who
526 has an approved doctoral degree in psychology as defined in s.
527 490.003(3)(b) and is employed by the department that is primarily
528 clinical in nature from a university or professional graduate
529 school that is state-authorized or accredited by an accrediting
530 agency approved by the United States Department of Education and
531 who is professionally certified by the appropriate professional
532 psychology association or who is licensed as a psychologist
533 pursuant to chapter 490.

534 (12)-(11) "Secretary" means the Secretary of Corrections.

535 (13)-(12) "Transitional mental health care" means a level of
536 care that is more intensive than outpatient care, but less
537 intensive than crisis stabilization care, and is characterized by
538 the provision of traditional mental health treatments such as
539 group and individual therapy, activity therapy, recreational
540 therapy, and psychotropic medications ~~chemotherapy~~, in the
541 context of a structured residential setting. Transitional mental
542 health care is indicated for a person with chronic or residual
543 symptomatology who does not require crisis stabilization care or
544 acute psychiatric care ~~at the hospital level~~, but whose
545 impairment ~~impairments~~ in functioning nevertheless renders ~~render~~
546 him or her incapable of adjusting satisfactorily within the

591-03059-08

20087024__

547 | general inmate population, ~~even with the assistance of outpatient~~
548 | ~~care.~~

549 | (14)~~(13)~~ "Warden" means the warden of a state corrections
550 | facility or his or her designee.

551 | Section 10. Section 945.43, Florida Statutes, is amended to
552 | read:

553 | 945.43 Admission of inmate to mental health treatment
554 | facility.--

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

558 | (2) PROCEDURE FOR PLACEMENT IN ADMISSION TO A MENTAL HEALTH
559 | TREATMENT FACILITY.--

560 | (a) An inmate may be admitted to a mental health treatment
561 | facility after notice and hearing, upon the recommendation of the
562 | warden of the facility where the inmate is confined ~~and of the~~
563 | ~~director.~~ The recommendation shall be entered on a petition
564 | ~~certificate~~ and must be supported by the expert opinion of a
565 | psychiatrist and the second opinion of a psychiatrist or
566 | psychologist. The petition ~~certificate~~ shall be filed with the
567 | court in the county where the inmate is located ~~and shall serve~~
568 | ~~as a petition for a hearing regarding placement.~~

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

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

591-03059-08

20087024__

576 2. ~~A petition for such hearing, which requires only the~~
577 ~~signature of the inmate or the inmate's representative for~~
578 ~~completion.~~

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

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

585 (c) The petition for placement may be filed in the county
586 in which the inmate is located ~~being treated at any time within 6~~
587 ~~months of the date of the certificate.~~ The hearing shall be held
588 in the same county, and one of the inmate's physicians at the
589 facility where the inmate is located shall appear as a witness at
590 the hearing.

591 (d) The inmate may have an attorney represent him or her at
592 the hearing and, if the inmate is indigent, the court may appoint
593 the office of the public defender or private counsel pursuant to
594 s. 27.40(1) to represent the inmate at the hearing. An attorney
595 representing the inmate shall have access to the inmate and any
596 records, including medical or mental health records, which are
597 relevant to the representation of the inmate.

598 (e) If the court finds that the inmate is mentally ill and
599 in need of care and treatment, as defined in s. 945.42(6), the
600 court ~~it~~ shall order that he or she be placed in ~~admitted to~~ a
601 mental health treatment facility or, if the inmate is at a mental
602 health treatment facility, that he or she be retained there.
603 ~~However, the inmate may be immediately transferred to and~~
604 ~~admitted at a mental health treatment facility by executing a~~

591-03059-08

20087024__

605 ~~waiver of the hearing by express and informed consent, without~~
606 ~~awaiting the court order.~~ The court shall authorize the mental
607 health treatment facility to retain the inmate for up to 6
608 months. If, at the end of that time, continued placement
609 ~~treatment~~ is necessary, the warden shall apply to the Division of
610 Administrative Hearings in accordance with s. 945.45 ~~court~~ for an
611 order authorizing continued placement.

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

617 (a) The court shall serve notice on the warden of the
618 facility where the inmate is confined, ~~the director,~~ and the
619 allegedly mentally ill inmate. The notice must ~~shall~~ specify the
620 date, time, and place of the hearing; the basis for the
621 allegation of mental illness; and the names of the examining
622 experts. The hearing shall be held within 5 days, and the court
623 may appoint a general or special magistrate to preside. The court
624 may waive the presence of the inmate at the hearing if such
625 waiver is consistent with the best interests of the inmate and
626 the inmate's counsel does not object. The hearing may be as
627 informal as is consistent with orderly procedure. One of the
628 experts whose opinion supported the petition for placement
629 ~~recommendation~~ shall be present at the hearing for information
630 purposes.

631 (b) If, at the hearing, the court finds that the inmate is
632 mentally ill and in need of care and treatment, as defined in s.
633 945.42(6), the court ~~it~~ shall order that he or she be placed in

591-03059-08

20087024__

634 ~~transferred to~~ a mental health treatment facility ~~and provided~~
635 ~~appropriate treatment~~. The court shall provide a copy of its
636 order authorizing placement ~~transfer~~ and all supporting
637 documentation relating to the inmate's condition to the warden of
638 the treatment facility. If the court finds that the inmate is not
639 mentally ill, it shall dismiss the petition for placement
640 ~~transfer~~.

641 (4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL
642 ALLOWED.--The warden of an institution in which a mental health
643 treatment facility is located may refuse to place ~~admit~~ any
644 inmate in that treatment facility who is not accompanied by
645 adequate court orders and documentation, as required in ss.
646 945.40-945.49.

647 Section 11. Section 945.44, Florida Statutes, is amended to
648 read:

649 945.44 Emergency placement ~~admission~~ of inmate in a ~~to~~
650 mental health treatment facility.--

651 (1) CRITERIA.--An inmate may be placed in a mental health
652 treatment facility on an emergency basis if he or she is mentally
653 ill and in immediate need of care and treatment, as defined in s.
654 945.42(5).

655 (2) PROCEDURE FOR EMERGENCY PLACEMENT ADMISSION.--An inmate
656 who is mentally ill and in immediate need of care and treatment
657 that which cannot be provided at the institution where he or she
658 is confined may be placed in ~~admitted to~~ a mental health
659 treatment facility on an emergency basis. The inmate may be
660 placed ~~transferred~~ immediately in a mental health treatment ~~to~~
661 ~~the~~ facility and shall be accompanied by the recommendation of
662 the warden of the institution where the inmate is confined, which

591-03059-08

20087024__

663 recommendation must ~~shall~~ state the need for the emergency
664 placement transfer and ~~shall~~ include a written opinion of a
665 physician verifying the need for the emergency placement
666 ~~transfer~~. Upon the emergency placement ~~the admission~~ of the
667 inmate in ~~to~~ the facility, the inmate shall be evaluated; if he
668 or she is determined to be in need of treatment or care, the
669 warden shall initiate proceedings for placement of the inmate, as
670 described in s. 945.43(2).

671 Section 12. Section 945.45, Florida Statutes, is amended to
672 read:

673 945.45 ~~Procedure for~~ continued placement of inmates in a
674 mental health treatment facility.--

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

678 (2) ~~(1)~~ PROCEDURE FOR CONTINUED PLACEMENT OF AN INMATE IN A
679 MENTAL HEALTH TREATMENT FACILITY.--

680 (a) If ~~continued placement of an inmate is necessary,~~ the
681 warden shall, prior to the expiration of the period during which
682 the treatment facility is authorized to retain the inmate, file a
683 petition with the Division of Administrative Hearings for ~~request~~
684 an order authorizing continued placement. The petition must ~~This~~
685 ~~request shall~~ be accompanied by a statement from the inmate's
686 physician justifying the petition request and providing a brief
687 summary of the inmate's treatment during the time he or she has
688 been placed. In addition, the warden shall submit an
689 individualized plan for the inmate for whom he or she is
690 requesting continued placement. The inmate may remain in a mental

591-03059-08

20087024__

691 health treatment facility pending a hearing after the timely
692 filing of the petition.

693 (b) Notification of this request for retention shall be
694 mailed to the inmate, and the inmate's representative along with
695 a waiver-of-hearing form and the completed petition, requesting
696 the inmate's only a signature and a waiver-of-hearing form. The
697 waiver-of-hearing form shall require express and informed consent
698 and shall state that the inmate is entitled to an administrative
699 a hearing under the law; that the inmate is entitled to be
700 represented by an attorney at the hearing and that, if the inmate
701 cannot afford an attorney, one will be appointed; and that, if it
702 is shown at the hearing that the inmate does not meet the
703 criteria for continued placement, he or she will be transferred
704 out of the mental health treatment facility to another facility
705 of the department. If the inmate ~~or the inmate's representative~~
706 does not sign the petition, or if the inmate does not sign a
707 waiver within 15 days, the administrative law judge shall notice
708 a hearing with regard to the inmate involved in accordance with
709 ss. 120.569 and 120.57(1).

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

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

716 (a) The hearing on a petition for the continued placement
717 of an inmate in a mental health treatment facility is an
718 administrative hearing and shall be conducted in accordance with
719 ss. 120.569 and 120.57(1), except that an order entered by the

591-03059-08

20087024__

720 administrative law judge is final and subject to judicial review
721 in accordance with s. 120.68. An administrative law judge shall
722 be assigned by the Division of Administrative Hearings to conduct
723 hearings for continued placement.

724 (b) The administrative law judge may waive the presence of
725 the inmate at the hearing if such waiver is consistent with the
726 best interests of the inmate and the inmate's counsel does not
727 object.

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

733 (d)(3) If the inmate waives the hearing or if the
734 administrative law judge finds that the inmate is in need of
735 continued placement treatment, the administrative law judge shall
736 enter an order authorizing such continued placement treatment for
737 a period not to exceed 1 year. The same procedure shall be
738 repeated prior to the expiration of each additional 1-year period
739 that the inmate is retained in the mental health treatment
740 facility.

741 ~~(4) Hearings on requests for orders authorizing continued~~
742 ~~placement filed in accordance with this section shall be~~
743 ~~conducted in accordance with the provisions of ss. 120.569 and~~
744 ~~120.57(1), except that any order entered by the administrative~~
745 ~~law judge shall be final and subject to judicial review in~~
746 ~~accordance with s. 120.68.~~

747 Section 13. Section 945.46, Florida Statutes, is amended to
748 read:

591-03059-08

20087024__

749 945.46 Initiation of involuntary placement proceedings with
750 respect to a mentally ill inmate scheduled for release.--

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

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

761 Section 14. Section 945.47, Florida Statutes, is amended to
762 read:

763 945.47 Discharge of inmate from mental health treatment.--

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

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

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

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

591-03059-08

20087024__

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

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

785 ~~(2) An inmate who is involuntarily placed pursuant to s.~~
786 ~~394.467 at the expiration of his or her sentence may be placed,~~
787 ~~by order of the court, in a facility designated by the Department~~
788 ~~of Children and Family Services as a secure, nonforensic, civil~~
789 ~~facility. Such a placement shall be conditioned upon a finding by~~
790 ~~the court of clear and convincing evidence that the inmate is~~
791 ~~manifestly dangerous to himself or herself or others. The need~~
792 ~~for such placement shall be reviewed by facility staff every 90~~
793 ~~days. At any time that a patient is considered for transfer to a~~
794 ~~nonsecure, civil unit, the court which entered the order for~~
795 ~~involuntary placement shall be notified.~~

796 ~~(2)(3)~~ At any time that an inmate who has received mental
797 health treatment while in the custody of the department becomes
798 eligible for release under supervision or upon end of sentence ~~on~~
799 ~~parole~~, a ~~complete~~ record of the inmate's mental health treatment
800 may shall be provided to the Parole Commission and to the
801 Department of Children and Family Services upon request. The
802 record shall include, at a minimum least, a summary of the
803 inmate's diagnosis, length of stay in treatment, clinical
804 history, prognosis, prescribed medication, ~~and~~ treatment plan,
805 and recommendations for aftercare services. ~~In the event that the~~
806 ~~inmate is released on parole, the record shall be provided to the~~

591-03059-08

20087024__

807 ~~parole officer who shall assist the inmate in applying for~~
808 ~~services from a professional or an agency in the community. The~~
809 ~~application for treatment and continuation of treatment by the~~
810 ~~inmate may be made a condition of parole, as provided in s.~~
811 ~~947.19(1); and a failure to participate in prescribed treatment~~
812 ~~may be a basis for initiation of parole violation hearings.~~

813 Section 15. Section 945.48, Florida Statutes, is amended to
814 read:

815 945.48 Rights of inmates ~~inmate~~ provided mental health
816 treatment; procedure for involuntary treatment.--

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

823 (2) RIGHT TO EXPRESS AND INFORMED CONSENT.--Any inmate
824 provided psychiatric treatment within the department shall be
825 asked to give his or her express and informed written consent for
826 such treatment. "Express and informed written consent" or
827 "consent" means consent voluntarily given in writing after a
828 conscientious and sufficient explanation and disclosure of the
829 purpose of the proposed treatment; the common side effects of the
830 treatment, if any; the expected duration of the treatment; and
831 the alternative treatment available. The explanation shall enable
832 the inmate to make a knowing and willful decision without any
833 element of fraud, deceit, or duress or any other form of
834 constraint or coercion.

591-03059-08

20087024__

835 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF

836 INMATES.--Involuntary mental health treatment of an inmate who
837 refuses treatment that is deemed to be necessary for the
838 appropriate care of the inmate and the safety of the inmate or
839 others may be provided at a mental health treatment facility. ~~an~~
840 ~~institution authorized to do so by the Assistant Secretary for~~
841 ~~Health Services under the following circumstances:~~

842 ~~(a) In an emergency situation in which there is immediate~~
843 ~~danger to the health and safety of the inmate or other inmates,~~
844 ~~such treatment may be provided upon the written order of a~~
845 ~~physician for a period not to exceed 48 hours, excluding weekends~~
846 ~~and legal holidays. If, after the 48-hour period, the inmate has~~
847 ~~not given express and informed consent to the treatment initially~~
848 ~~refused, the warden shall, within 48 hours, excluding weekends~~
849 ~~and legal holidays, petition the circuit court serving the county~~
850 ~~in which the facility is located for an order authorizing the~~
851 ~~continued treatment of the inmate. In the interim, treatment may~~
852 ~~be continued upon the written order of a physician who has~~
853 ~~determined that the emergency situation continues to present a~~
854 ~~danger to the safety of the inmate or others. If an inmate must~~
855 ~~be isolated for mental health purposes, that decision must be~~
856 ~~reviewed within 72 hours by medical staff different from that~~
857 ~~making the original placement.~~

858 ~~(b) In a situation other than an emergency situation, The~~
859 ~~warden~~ of the institution containing the mental health treatment
860 facility shall petition the circuit court serving the county in
861 which the mental health treatment facility is located for an
862 order authorizing the treatment of the inmate. The inmate shall
863 be provided with a copy of the petition along with the proposed

591-03059-08

20087024__

864 treatment, the basis for the proposed treatment, the names of the
865 examining experts, and the date, time, and location of the
866 hearing. The inmate may have an attorney represent him or her at
867 the hearing and, if the inmate is indigent, the court shall
868 appoint the office of the public defender or private counsel
869 pursuant to s. 27.40(1) to represent the inmate at the hearing.
870 An attorney representing the inmate shall have access to the
871 inmate and any records, including medical or mental health
872 records, which are relevant to the representation of the inmate.
873 ~~The order shall allow such treatment for a period not to exceed~~
874 ~~90 days from the date of the order. Unless the court is notified~~
875 ~~in writing that the inmate has provided express and informed~~
876 ~~consent in writing, that the inmate has been transferred to~~
877 ~~another institution of the department, or that the inmate is no~~
878 ~~longer in need of treatment, the warden shall, prior to the~~
879 ~~expiration of the initial 90-day order, petition the court for an~~
880 ~~order authorizing the continuation of treatment for another 90-~~
881 ~~day period. This procedure shall be repeated until the inmate~~
882 ~~provides consent or is no longer in need of treatment. Treatment~~
883 ~~may be continued pending a hearing after the filing of any~~
884 ~~petition.~~

885 (4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF
886 AN INMATE.--

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

591-03059-08

20087024__

893 the presence of the inmate at the hearing if such waiver is
894 consistent with the best interests of the inmate and the inmate's
895 counsel does not object. One of the inmate's physicians whose
896 opinion supported the petition shall appear as a witness at the
897 hearing.

898 (b)(e) At the hearing on the issue of whether the court
899 should authorize treatment for which an inmate has refused to
900 give express and informed consent, the court shall determine by
901 clear and convincing evidence whether the inmate is mentally ill
902 as defined in this chapter; whether such treatment is essential
903 to the care of the inmate; and whether the treatment is
904 experimental or presents an unreasonable risk of serious,
905 hazardous, or irreversible side effects. In arriving at the
906 substitute judgment decision, the court must consider at least
907 the following:

- 908 1. The inmate's expressed preference regarding treatment;
- 909 2. The probability of adverse side effects;
- 910 3. The prognosis for the inmate without treatment; and
- 911 4. The prognosis for the inmate with treatment.

912
913 ~~The inmate and the inmate's representative shall be provided with~~
914 ~~a copy of the petition and the date, time, and location of the~~
915 ~~hearing. The inmate may have an attorney represent him or her at~~
916 ~~the hearing, and, if the inmate is indigent, the court shall~~
917 ~~appoint the office of the public defender to represent him or her~~
918 ~~at the hearing. The inmate may testify or not, as he or she~~
919 ~~chooses, may cross-examine witnesses testifying on behalf of the~~
920 ~~facility, and may present his or her own witnesses.~~

591-03059-08

20087024__

921 (c) An order authorizing involuntary treatment shall allow
922 such treatment for a period not to exceed 90 days following the
923 date of the order. Unless the court is notified in writing that
924 the inmate has provided express and informed consent in writing,
925 that the inmate has been transferred to another institution of
926 the department, or that the inmate is no longer in need of
927 treatment, the warden shall, prior to the expiration of the
928 initial 90-day order, petition the court for an order authorizing
929 the continuation of treatment for another 90-day period. This
930 procedure shall be repeated until the inmate provides express and
931 informed consent or is no longer in need of treatment. Treatment
932 may be continued pending a hearing after the timely filing of any
933 petition.

934 (5) PROCEDURE FOR EMERGENCY TREATMENT.--In an emergency
935 situation in which there is immediate danger to the health and
936 safety of an inmate or other inmates, emergency treatment may be
937 provided at a mental health treatment facility upon the written
938 order of a physician for a period not to exceed 48 hours,
939 excluding weekends and legal holidays. If, after the 48-hour
940 period, the inmate has not given express and informed consent to
941 the treatment initially refused, the warden shall, within 48
942 hours, excluding weekends and legal holidays, petition the
943 circuit court, in accordance with the procedures described in
944 this section, for an order authorizing the continued treatment of
945 the inmate. In the interim, treatment may be continued upon the
946 written order of a physician who has determined that the
947 emergency situation continues to present a danger to the safety
948 of the inmate or others. If an inmate must be isolated for mental
949 health purposes, that decision must be reviewed within 72 hours

591-03059-08

20087024__

950 by a different psychologist or a physician than the one making
951 the original placement.

952 ~~(6)~~ (d) EMERGENCY TREATMENT.--In addition to the other above
953 provisions of this section for mental health treatment, when the
954 consent ~~permission~~ of the inmate cannot be obtained, the warden
955 of a mental health treatment facility, or his or her designated
956 representative, with the concurrence of the inmate's attending
957 physician, may authorize emergency surgical or nonpsychiatric
958 medical treatment if such treatment is deemed lifesaving or there
959 is a situation threatening serious bodily harm to the inmate.

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

966 Section 16. Section 945.49, Florida Statutes, is amended to
967 read:

968 945.49 Operation and administration.--

969 (1) ADMINISTRATION.--The department is authorized to
970 contract with the appropriate entities, agencies, persons, and
971 local governing bodies to provide mental health services pursuant
972 to ss. 945.40-945.49.

973 (2) RULES.--The department, in cooperation with the Mental
974 Health Program Office of the Department of Children and Family
975 Services, shall adopt rules necessary for administration of ss.
976 945.40-945.49 in accordance with chapter 120.

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

591-03059-08

20087024__

979 | specialized training above and beyond that required for basic
980 | certification pursuant to chapter 943. ~~Such training shall be in~~
981 | ~~accordance with requirements of the Criminal Justice Standards~~
982 | ~~and Training Commission.~~

983 | (4) STATUS OF INMATE.--An inmate receiving mental health
984 | treatment shall be subject to the same standards applied to other
985 | inmates in the department, including, but not limited to,
986 | consideration for parole, release by reason of gain-time
987 | allowances as provided for in s. 944.291, and release by
988 | expiration of sentence. ~~ADMINISTRATIVE LAW JUDGES.--One or more~~
989 | ~~administrative law judges shall be assigned by the Division of~~
990 | ~~Administrative Hearings to conduct hearings for continued~~
991 | ~~placement.~~

992 | Section 17. Paragraph (c) of subsection (3) of section
993 | 948.01, Florida Statutes, is amended to read:

994 | 948.01 When court may place defendant on probation or into
995 | community control.--

996 | (3) If, after considering the provisions of subsection (2)
997 | and the offender's prior record or the seriousness of the
998 | offense, it appears to the court in the case of a felony
999 | disposition that probation is an unsuitable dispositional
1000 | alternative to imprisonment, the court may place the offender in
1001 | a community control program as provided in s. 948.10. Or, in a
1002 | case of prior disposition of a felony commitment, upon motion of
1003 | the offender or the department or upon its own motion, the court
1004 | may, within the period of its retained jurisdiction following
1005 | commitment, suspend the further execution of the disposition and
1006 | place the offender in a community control program upon such terms
1007 | as the court may require. The court may consult with a local

591-03059-08

20087024__

1008 offender advisory council pursuant to s. 948.90 with respect to
1009 the placement of an offender into community control. Not later
1010 than 3 working days before the hearing on the motion, the
1011 department shall forward to the court all relevant material on
1012 the offender's progress while in custody. If this sentencing
1013 alternative to incarceration is utilized, the court shall:

1014 ~~(c) Require the department to provide notifications~~
1015 ~~pursuant to s. 948.10(7).~~

1016 Section 18. Section 948.10, Florida Statutes, is amended to
1017 read:

1018 948.10 Community control programs.--

1019 (1) The Department of Corrections shall develop and
1020 administer a community control program. ~~Such community control~~
1021 ~~program and required manuals shall be developed in consultation~~
1022 ~~with the Florida Conference of Circuit Court Judges and the~~
1023 ~~office of the State Courts Administrator.~~ This complementary
1024 program shall be rigidly structured and designed to accommodate
1025 offenders who, in the absence of such a program, would have been
1026 incarcerated. The program shall focus on the provision of
1027 sanctions and consequences which are commensurate with the
1028 seriousness of the crime. The program shall offer the courts and
1029 the Parole Commission an alternative, community-based method to
1030 punish an offender in lieu of incarceration when the offender is
1031 a member of one of the following target groups:

1032 (a) Probation violators charged with technical violations
1033 or misdemeanor violations.

1034 (b) Parole violators charged with technical violations or
1035 misdemeanor violations.

591-03059-08

20087024__

1036 (c) Individuals found guilty of felonies, who, due to their
1037 criminal backgrounds or the seriousness of the offenses, would
1038 not be placed on regular probation.

1039 ~~(2) An offender may not be placed in community control if:~~

1040 ~~(a) Convicted of or adjudication withheld for a forcible~~
1041 ~~felony as defined in s. 776.08, and~~

1042 ~~(b) Previously convicted of or adjudication withheld for a~~
1043 ~~forcible felony as defined in s. 776.08.~~

1044
1045 ~~Nothing in this subsection prohibits placement of certain inmates~~
1046 ~~on community control pursuant to s. 947.1747. For the purposes of~~
1047 ~~this subsection, a forcible felony does not include manslaughter~~
1048 ~~or burglary.~~

1049 ~~(2)(3) The department shall commit not less than 10 percent~~
1050 ~~of the parole and probation field staff and supporting resources~~
1051 ~~to the operation of the community control program. Caseloads~~
1052 ~~should be restricted to a maximum of 25 cases per officer in~~
1053 ~~order to ensure an adequate level of staffing. Community control~~
1054 ~~is an individualized program in which the offender is restricted~~
1055 ~~to noninstitutional quarters or restricted to his or her own~~
1056 ~~residence subject to an authorized level of limited freedom.~~

1057 ~~(4) The department shall develop and implement procedures~~
1058 ~~to diagnose offenders during the prison intake process in order~~
1059 ~~to recommend to the sentencing courts, during the period of~~
1060 ~~retained jurisdiction, suitable candidates for placement in a~~
1061 ~~program of community control.~~

1062 ~~(5) The Department of Corrections shall develop, or shall~~
1063 ~~contract for the development of, an implementation manual, a~~

591-03059-08

20087024__

1064 ~~resource directory, and training programs for implementing~~
1065 ~~community control programs.~~

1066 ~~(a)1. The community control implementation manual shall~~
1067 ~~include, but shall not be limited to, an explanation of the types~~
1068 ~~of offenders who should be placed in community control programs,~~
1069 ~~procedures for diagnosing offenders, objectives and goals of such~~
1070 ~~placements, examples of alternative placements based upon the~~
1071 ~~experience of other states, and instruction in developing an~~
1072 ~~individualized program for each offender.~~

1073 ~~2. An offender's individualized program shall include~~
1074 ~~diagnosis of treatment needs in the areas of education, substance~~
1075 ~~abuse, and mental health, as well as community sanction~~
1076 ~~provisions, restitution and community service provisions,~~
1077 ~~rehabilitation objectives and programs, and a schedule for~~
1078 ~~periodic review and reevaluation of such individualized programs.~~
1079 ~~Individualized programs for offenders who committed controlled~~
1080 ~~substance violations shall include provision for the conduct of~~
1081 ~~random substance abuse testing intermittently throughout the term~~
1082 ~~of supervision, upon the direction of the correctional probation~~
1083 ~~officer as defined in s. 943.10(3).~~

1084 ~~(b) The community control resource directory shall include,~~
1085 ~~but shall not be limited to, for each circuit in the state, an~~
1086 ~~identification and description of community resources that are~~
1087 ~~available for the implementation of community control programs,~~
1088 ~~which resources include the following:~~

1089 ~~1. The name, address, phone, county location, capacity, and~~
1090 ~~cost.~~

1091 ~~2. Client eligibility and characteristics which prohibit~~
1092 ~~acceptance.~~

591-03059-08

20087024__

1093 ~~3. The objectives of the program.~~

1094 ~~4. The primary source of referrals.~~

1095 ~~5. The average length of stay.~~

1096 ~~6. The services offered.~~

1097 ~~(c) Training programs shall be provided for correctional~~

1098 ~~field staff, local offender advisory councils, and others~~

1099 ~~responsible for the implementation of community control programs.~~

1100 ~~(6) The Florida Court Education Council and the office of~~

1101 ~~the State Courts Administrator shall coordinate the development~~

1102 ~~and implementation of a reference manual, directory, and training~~

1103 ~~programs for judges in relation to community control disposition.~~

1104 ~~(7) Upon written request, when an offender is placed on~~

1105 ~~community control, the department shall notify:~~

1106 ~~(a) The original arresting law enforcement agency.~~

1107 ~~(b) The sheriff or chief law enforcement officer of the~~

1108 ~~county in which the offender is to be placed.~~

1109 ~~(c) The chief officer of any local law enforcement agency~~

1110 ~~within whose jurisdiction the offender is to be placed.~~

1111 ~~(d) The victim of the offense, the victim's parent or~~

1112 ~~guardian if the victim is a minor, the lawful representative of~~

1113 ~~the victim or the victim's parent or guardian if the victim is a~~

1114 ~~minor, or the next of kin if the victim is a homicide victim.~~

1115

1116 ~~Such notification shall include the name and street address of~~

1117 ~~the offender, the length of supervision, and the nature of the~~

1118 ~~offense. Update notification must be provided with respect to~~

1119 ~~violation of the terms or conditions of the placement.~~

591-03059-08

20087024__

1120 ~~(8) If an offender is sentenced to community control by the~~
1121 ~~court and the offender is ineligible to be placed on community~~
1122 ~~control as provided in subsection (2), the department shall:~~

1123 ~~(a) Review and verify whether an ineligible offender was~~
1124 ~~placed on community control.~~

1125 ~~(b) Within 30 days after receipt of the order, notify the~~
1126 ~~sentencing judge, the state attorney, and the Attorney General~~
1127 ~~that the offender was ineligible for placement on community~~
1128 ~~control.~~

1129 ~~(c) Provide a quarterly report to the chief judge and the~~
1130 ~~state attorney of each circuit citing the number of ineligible~~
1131 ~~offenders placed on community control within that circuit.~~

1132 ~~(d) Provide an annual report to the Governor, the President~~
1133 ~~of the Senate, the Speaker of the House of Representatives, and~~
1134 ~~the Chief Justice of the Supreme Court on the placement of~~
1135 ~~ineligible offenders on community control in order to assist in~~
1136 ~~preparing judicial education programs or for any other purpose.~~

1137 (3)~~(9)~~ Procedures governing violations of community control
1138 shall be the same as those described in s. 948.06 with respect to
1139 probation.

1140 (4)~~(10)~~ Upon completion of the sanctions imposed in the
1141 community control plan before the expiration of the term ordered
1142 by the court, the department may petition the court to discharge
1143 the offender from community control supervision or to return the
1144 offender to a program of regular probation supervision. In
1145 considering the petition, the court should recognize the limited
1146 staff resources committed to the community control program, the
1147 purpose of the program, and the offender's successful compliance
1148 with the conditions set forth in the order of the court.

591-03059-08

20087024__

- 1149 ~~(11) The Department of Corrections shall:~~
- 1150 ~~(a) Develop and maintain a weighted statewide caseload~~
- 1151 ~~equalization strategy designed to ensure that high-risk offenders~~
- 1152 ~~receive the highest level of supervision; and~~
- 1153 ~~(b) Develop and implement a supervision risk assessment~~
- 1154 ~~instrument for the community control population which is similar~~
- 1155 ~~to the probation risk assessment instrument established by the~~
- 1156 ~~National Institute of Justice.~~
- 1157 ~~(12) In its annual report to the Governor, the President of~~
- 1158 ~~the Senate, and the Speaker of the House of Representatives under~~
- 1159 ~~s. 20.315(5), the department shall include a detailed analysis of~~
- 1160 ~~the community control program and the department's specific~~
- 1161 ~~efforts to protect the public from offenders placed on community~~
- 1162 ~~control. The analysis must include, but need not be limited to,~~
- 1163 ~~specific information on the department's ability to meet minimum~~
- 1164 ~~officer-to-offender contact standards, the number of crimes~~
- 1165 ~~committed by offenders on community control, and the level of~~
- 1166 ~~community supervision provided.~~
- 1167 Section 19. Subsections (1) and (2) of section 958.04,
- 1168 Florida Statutes, are amended to read:
- 1169 958.04 Judicial disposition of youthful offenders.--
- 1170 (1) The court may sentence as a youthful offender any
- 1171 person:
- 1172 (a) Who is at least 18 years of age or who has been
- 1173 transferred for prosecution to the criminal division of the
- 1174 circuit court pursuant to chapter 985;
- 1175 (b) Who is found guilty of or who has tendered, and the
- 1176 court has accepted, a plea of nolo contendere or guilty to a
- 1177 crime that ~~which~~ is, under the laws of this state, a felony if

591-03059-08

20087024__

1178 the offender is younger than 21 years of age at the time sentence
1179 is imposed ~~such crime was committed before the defendant's 21st~~
1180 ~~birthday~~; and

1181 (c) Who has not previously been classified as a youthful
1182 offender under the provisions of this act; however, a ~~no~~ person
1183 who has been found guilty of a capital or life felony may not be
1184 sentenced as a youthful offender under this act.

1185 (2) In lieu of other criminal penalties authorized by law
1186 and notwithstanding any imposition of consecutive sentences, the
1187 court shall dispose of the criminal case as follows:

1188 (a) The court may place a youthful offender under
1189 supervision on probation or in a community control program, with
1190 or without an adjudication of guilt, under such conditions as the
1191 court may lawfully impose for a period of not more than 6 years.
1192 Such period of supervision may ~~shall~~ not exceed the maximum
1193 sentence for the offense for which the youthful offender was
1194 found guilty.

1195 (b) The court may impose a period of incarceration as a
1196 condition of probation or community control, which period of
1197 incarceration shall be served in ~~either~~ a county facility, a
1198 department probation and restitution center, or a community
1199 residential facility that ~~which~~ is owned and operated by any
1200 public or private entity providing such services. A ~~No~~ youthful
1201 offender may not be required to serve a period of incarceration
1202 in a community correctional center as defined in s. 944.026.
1203 Admission to a department facility or center shall be contingent
1204 upon the availability of bed space and shall take into account
1205 the purpose and function of such facility or center. Placement in
1206 such a facility or center may ~~shall~~ not exceed 364 days.

591-03059-08

20087024__

1207 (c) The court may impose a split sentence whereby the
1208 youthful offender is to be placed on probation or community
1209 control upon completion of any specified period of incarceration;
1210 however, if the incarceration period is to be served in a
1211 department facility other than a probation and restitution center
1212 or community residential facility, such period shall be for not
1213 less than 1 year or more than 4 years. The period of probation or
1214 community control shall commence immediately upon the release of
1215 the youthful offender from incarceration. The period of
1216 incarceration imposed or served and the period of probation or
1217 community control, when added together, may ~~shall~~ not exceed 6
1218 years.

1219 (d) The court may commit the youthful offender to the
1220 custody of the department for a period of not more than 6 years,
1221 provided that any such commitment may ~~shall~~ not exceed the
1222 maximum sentence for the offense for which the youthful offender
1223 has been convicted. Successful participation in the youthful
1224 offender program by an offender who is sentenced as a youthful
1225 offender by the court pursuant to this section, or is classified
1226 as such by the department, may result in a recommendation to the
1227 court, by the department, for a modification or early termination
1228 of probation, community control, or the sentence at any time
1229 prior to the scheduled expiration of such term. The department
1230 shall adopt rules defining criteria for successful participation
1231 in the youthful offender program which shall include program
1232 participation, academic and vocational training, and satisfactory
1233 adjustment. When a modification of the sentence results in the
1234 reduction of a term of incarceration, the court may impose a term
1235 of probation or community control which, when added to the term

591-03059-08

20087024__

1236 of incarceration, may ~~shall~~ not exceed the original sentence
1237 imposed.

1238 Section 20. Section 958.11, Florida Statutes, is amended to
1239 read:

1240 958.11 Designation of institutions and programs for
1241 youthful offenders; assignment from youthful offender
1242 institutions and programs.--

1243 (1) The department shall by rule designate separate
1244 institutions and programs for youthful offenders and shall employ
1245 and utilize personnel specially qualified by training and
1246 experience to operate all such institutions and programs for
1247 youthful offenders. Youthful offenders who are at least 14 years
1248 of age but who have not yet reached the age of 19 years at the
1249 time of reception shall be separated from youthful offenders who
1250 are 19 years of age or older, except that if the population of
1251 the facilities designated for 14-year-old to 18-year-old youthful
1252 offenders exceeds 100 percent of lawful capacity, the department
1253 may assign 18-year-old youthful offenders to the 19-24 age group
1254 facility.

1255 (2) Youthful offender institutions and programs shall
1256 contain only those youthful offenders sentenced as such by a
1257 court or classified as such by the department, pursuant to the
1258 requirements of subsections (4) and (6), except that under
1259 special circumstances select adult offenders may be assigned to
1260 youthful offender institutions. Female youthful offenders of all
1261 ages may continue to be housed together at those institutions
1262 designated by department rule ~~Florida Correctional Institution~~
1263 ~~and Broward Correctional Institution~~ until such time as
1264 institutions for a female youthful offenders are offender

591-03059-08

20087024__

1265 ~~institution is~~ established or adapted to allow for separation by
1266 age and to accommodate all custody classifications.

1267 (3) The department may assign a youthful offender to a
1268 facility in the state correctional system which is not designated
1269 for the care, custody, control, and supervision of youthful
1270 offenders or an age group only in the following circumstances:

1271 (a) If the youthful offender is convicted of a new crime
1272 which is a felony under the laws of this state.

1273 (b) If the youthful offender becomes such a serious
1274 management or disciplinary problem resulting from serious
1275 violations of the rules of the department that his or her
1276 original assignment would be detrimental to the interests of the
1277 program and to other inmates committed thereto.

1278 (c) If the youthful offender needs medical treatment,
1279 health services, or other specialized treatment otherwise not
1280 available at the youthful offender facility.

1281 (d) If the department determines that the youthful offender
1282 should be transferred outside of the state correctional system,
1283 as provided by law, for services not provided by the department.

1284 (e) If bed space is not available in a designated community
1285 residential facility, the department may assign a youthful
1286 offender to a community residential facility, provided that the
1287 youthful offender is separated from other offenders insofar as is
1288 practical.

1289 (f) If the youthful offender was originally assigned to a
1290 facility designated for 14-year-old to 18-year-old youthful
1291 offenders, but subsequently reaches the age of 19 years, the
1292 department may retain the youthful offender in the facility if

591-03059-08

20087024__

1293 the department determines that it is in the best interest of the
1294 youthful offender and the department.

1295 (g) If the department determines that a youthful offender
1296 originally assigned to a facility designated for the 19-24 age
1297 group is mentally or physically vulnerable by such placement, the
1298 department may reassign a youthful offender to a facility
1299 designated for the 14-18 age group if the department determines
1300 that a reassignment is necessary to protect the safety of the
1301 youthful offender or the institution.

1302 (h) If the department determines that a youthful offender
1303 originally assigned to a facility designated for the 14-18 age
1304 group is disruptive, incorrigible, or uncontrollable, the
1305 department may reassign a youthful offender to a facility
1306 designated for the 19-24 age group if the department determines
1307 that a reassignment would best serve the interests of the
1308 youthful offender and the department.

1309 (4) The department ~~Office of the Assistant Secretary for~~
1310 ~~Youthful Offenders~~ shall continuously screen all institutions,
1311 facilities, and programs for any inmate who meets the eligibility
1312 requirements for youthful offender designation specified in s.
1313 958.04(1)(a) and (c) whose age does not exceed 24 years and whose
1314 total length of sentence does not exceed 10 years, and the
1315 department may classify and assign as a youthful offender any
1316 inmate who meets the criteria of this subsection.

1317 (5) The department ~~Population Movement and Control~~
1318 ~~Coordinator~~ shall coordinate all youthful offender assignments or
1319 transfers and shall ~~consult with the Office of the Assistant~~
1320 ~~Secretary for Youthful Offenders. The Office of the Assistant~~
1321 ~~Secretary for Youthful Offenders shall~~ review and maintain access

591-03059-08

20087024__

1322 to full and complete documentation and substantiation of all such
1323 assignments or transfers of youthful offenders to or from
1324 facilities in the state correctional system which are not
1325 designated for their care, custody, and control, except
1326 assignments or transfers made pursuant to paragraph (3)(c).

1327 (6) The department may assign to a youthful offender
1328 facility any inmate, except a capital or life felon, whose age
1329 does not exceed 19 years but who does not otherwise meet the
1330 criteria of this section, if the department ~~Assistant Secretary~~
1331 ~~for Youthful Offenders~~ determines that such inmate's mental or
1332 physical vulnerability would substantially or materially
1333 jeopardize his or her safety in a nonyouthful offender facility.
1334 Assignments made under this subsection shall be included in the
1335 department's annual report.

1336 Section 21. Section 958.12, Florida Statutes, is amended to
1337 read:

1338 958.12 Participation in certain activities required.--

1339 (1) A youthful offender shall be required to participate in
1340 work assignments, and in career, academic, counseling, and other
1341 rehabilitative programs in accordance with this section,
1342 including, but not limited to:

1343 (a) All youthful offenders may be required, as appropriate,
1344 to participate in:

- 1345 1. Reception and orientation.
- 1346 2. Evaluation, needs assessment, and classification.
- 1347 3. Educational programs.
- 1348 4. Career and job training.
- 1349 5. Life and socialization skills training, including
1350 anger/aggression control.

591-03059-08

20087024__

1351 6. Prerelease orientation and planning.

1352 7. Appropriate transition services.

1353 (b) In addition to the requirements in paragraph (a), the
1354 department shall make available:

1355 1. Religious services and counseling.

1356 2. Social services.

1357 3. Substance abuse treatment and counseling.

1358 4. Psychological and psychiatric services.

1359 5. Library services.

1360 6. Medical and dental health care.

1361 7. Athletic, recreational, and leisure time activities.

1362 8. Mail and visiting privileges.

1363

1364 Income derived by a youthful offender from participation in such
1365 activities may be used, in part, to defray a portion of the costs
1366 of his or her incarceration or supervision; to satisfy
1367 preexisting obligations; to pay fines, counseling fees, or other
1368 costs lawfully imposed; or to pay restitution to the victim of
1369 the crime for which the youthful offender has been convicted in
1370 an amount determined by the sentencing court. Any such income not
1371 used for such reasons or not used as provided in s. 946.513 or s.
1372 958.09 shall be placed in a bank account for use by the youthful
1373 offender upon his or her release.

1374 (2) A comprehensive transition and postrelease plan shall
1375 be developed for the youthful offender by a team consisting of a
1376 transition assistance officer, a classification officer, an
1377 educational representative, a health services administrator, a
1378 probation and parole officer, and the youthful offender.

591-03059-08

20087024__

1379 ~~(3) A youthful offender shall be visited by a probation and~~
1380 ~~parole officer prior to the offender's release from incarceration~~
1381 ~~in order to assist in the youthful offender's transition.~~

1382 (3)(4) Community partnerships shall be developed by the
1383 department to provide postrelease community resources. The
1384 department shall develop partnerships with entities that ~~which~~
1385 include, but are not limited to, state agencies ~~the Department of~~
1386 ~~Labor and Employment Security, the Department of Children and~~
1387 ~~Family Services,~~ community health agencies, private agencies, and
1388 school systems.

1389 (4)(5) If supervision of the youthful offender after
1390 release from incarceration is required, this ~~and~~ may be
1391 accomplished in a residential or nonresidential program or
1392 intensive day treatment, or through supervision by a correctional
1393 probation and parole officer.

1394 Section 22. Transfer of administrative functions within the
1395 Parole Commission and the Department of Corrections.--

1396 (1) Pursuant to s. 944.012(5), Florida Statutes, and in
1397 order to make the correctional system an efficient and effective
1398 mechanism, the various agencies involved in the correctional
1399 process shall coordinate and consolidate their activities and
1400 areas of responsibility so that scarce resources are used more
1401 economically.

1402 (2) The Legislature finds that the Parole Commission and
1403 the Department of Corrections currently operate separate and
1404 distinct information technology systems having related functions.
1405 Consolidating the information technology functions of the
1406 commission within the department will increase efficiency,

591-03059-08

20087024__

1407 eliminate redundant functions and workloads, and provide a cost
1408 savings.

1409 (3) The Parole Commission shall transfer to the Department
1410 of Corrections all information technology functions, including,
1411 but not limited to, systems development and maintenance, database
1412 administration, computer operations, data center environment,
1413 systems engineering, and the network administration and help desk
1414 activities of the management information systems. The commission
1415 and the department shall develop and implement a written plan
1416 that provides for the full transfer of administrative functions,
1417 defines the functions to be performed by each party, and
1418 delineates responsibility for each function.

1419 Section 23. This act shall take effect October 1, 2008.