

1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 394.4572, F.S.; revising provisions relating
4 to employment screening requirements for mental health
5 personnel; revising the definition of the term "mental
6 health personnel"; removing an exemption from screening
7 requirements for certain mental health personnel; creating
8 s. 394.4996, F.S.; authorizing the Agency for Health Care
9 Administration, in consultation with the Department of
10 Children and Family Services, to establish a licensure
11 category for facilities providing integrated adult mental
12 health crisis stabilization unit and addictions receiving
13 facility services; authorizing such facilities to provide
14 integrated mental health and substance abuse services to
15 adults who meet certain criteria; providing for standards,
16 procedures, and requirements for services; providing
17 rulemaking authority; amending s. 394.655, F.S.; revising
18 purpose of the Criminal Justice, Mental Health, and
19 Substance Abuse Policy Council; amending s. 394.656, F.S.;
20 requiring the department and the agency to develop local
21 treatment and service delivery infrastructures in
22 coordination with counties receiving grants under the
23 Criminal Justice, Mental Health, and Substance Abuse
24 Reinvestment Grant Program; amending s. 394.657, F.S.;
25 providing additional duties of certain county planning
26 councils and committees; amending s. 394.659, F.S.;
27 providing additional duties of the Criminal Justice,
28 Mental Health, and Substance Abuse Technical Assistance

29 Center; requiring an annual report; amending s. 394.67,
30 F.S.; revising the definition of the term "residential
31 treatment center for children and adolescents"; providing
32 for such centers to be licensed by the agency; amending s.
33 394.674, F.S.; revising eligibility requirements for
34 substance abuse and mental health services funded by the
35 department; providing rulemaking authority; creating s.
36 394.9086, F.S.; creating the "Community Mental Health and
37 Substance Abuse Treatment and Crime Reduction Act";
38 providing goals; providing definitions; creating a
39 community mental health and substance abuse treatment
40 forensic treatment system; providing criteria for
41 eligibility; providing responsibilities of the department;
42 establishing demonstration sites; providing rulemaking
43 authority; amending s. 409.906, F.S.; authorizing the
44 agency to seek federal approval to implement home and
45 community-based services; amending s. 553.80, F.S.;
46 providing for enforcement of the Florida Building Code
47 construction regulations for secure mental health
48 treatment facilities by the department; amending s.
49 916.111, F.S.; revising provisions governing the training
50 of mental health experts; requiring forensic evaluator
51 training courses to be offered annually; providing
52 requirements for being placed on or removed from the
53 department's forensic evaluator registry; amending s.
54 916.115, F.S.; revising provisions relating to appointment
55 of experts by the court to evaluate the mental condition
56 of a criminal defendant; requiring experts to complete

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57 forensic evaluator training within a specified period of
58 time to remain on the department's registry; providing
59 conditions under which certain persons may assist in
60 forensic evaluations; amending s. 916.13, F.S.; creating
61 an exception to involuntary commitment for defendants
62 adjudicated incompetent in the custody of the Department
63 of Corrections; providing duties of the department
64 relating to treatment for defendants adjudicated
65 incompetent to proceed due to mental illness; revising
66 duties of the department and the court; specifying
67 timeframes for the filing of reports, the commitment and
68 placement of defendants, and the holding of hearings;
69 amending s. 916.15, F.S.; creating an exception for the
70 involuntary commitment of defendants adjudicated not
71 guilty by reason of insanity in the custody of the
72 Department of Corrections; revising duties of the
73 department and the court; specifying timeframes for the
74 filing of reports, the commitment and placement of
75 defendants, and the holding of hearings; amending s.
76 916.17, F.S.; providing conditions for placement of a
77 defendant in a community residential facility in a
78 demonstration area established under the act under certain
79 circumstances; providing criteria for such placement;
80 providing an effective date.

81
82 Be It Enacted by the Legislature of the State of Florida:
83

84 Section 1. Paragraph (d) of subsection (1) of section
 85 394.4572, Florida Statutes, is redesignated as paragraph (c),
 86 and present paragraphs (a) and (c) of that subsection are
 87 amended to read:

88 394.4572 Screening of mental health personnel.--

89 (1) (a) The department and the Agency for Health Care
 90 Administration shall require employment screening for mental
 91 health personnel using the standards for level 2 screening set
 92 forth in chapter 435. "Mental health personnel" includes all
 93 program directors, professional clinicians, staff members, and
 94 volunteers working in public or private mental health programs
 95 and facilities who have direct contact with ~~unmarried~~ patients
 96 ~~under the age of 18 years~~. For purposes of this chapter,
 97 employment screening of mental health personnel shall also
 98 include, but is not limited to, employment screening as provided
 99 under chapter 435.

100 ~~(c) Mental health personnel working in a facility licensed~~
 101 ~~under chapter 395 who have less than 15 hours per week of direct~~
 102 ~~contact with patients or who are health care professionals~~
 103 ~~licensed by the Agency for Health Care Administration or a board~~
 104 ~~thereunder are exempt from the fingerprinting and screening~~
 105 ~~requirements, except for persons working in mental health~~
 106 ~~facilities where the primary purpose of the facility is the~~
 107 ~~treatment of minors.~~

108 Section 2. Section 394.4996, Florida Statutes, is created
 109 to read:

110 394.4996 Integrated adult mental health crisis
 111 stabilization unit and addictions receiving facility services.--

112 (1) Beginning July 1, 2008, the Agency for Health Care
113 Administration, in consultation with the Department of Children
114 and Family Services, is authorized to license facilities that
115 integrate services provided in an adult mental health crisis
116 stabilization unit with services provided in an adult addictions
117 receiving facility. The services provided shall be designated as
118 "integrated adult mental health crisis stabilization unit and
119 addictions receiving facility services," and the facility
120 providing those services shall be licensed as an adult crisis
121 stabilization unit by the agency and shall meet all licensure
122 requirements for crisis stabilization units that provide these
123 integrated services.

124 (2) An integrated adult mental health crisis stabilization
125 unit and addictions receiving facility may provide services
126 under this section to adults 18 years of age or older who:

127 (a) Meet the requirements for voluntary admission for
128 mental health treatment under s. 394.4625;

129 (b) Meet the criteria for involuntary examination for
130 mental illness under s. 394.463;

131 (c) Qualify for voluntary admission for substance abuse
132 treatment under s. 397.601; or

133 (d) Meet the criteria for involuntary admission for
134 substance abuse impairment under s. 397.675.

135 (3) The department, in consultation with the agency, shall
136 adopt by rule standards that address eligibility criteria;
137 clinical procedures; staffing requirements; operational,
138 administrative, and financing requirements; and the
139 investigation of complaints. Standards that are implemented

140 specific to substance abuse treatment services shall meet or
 141 exceed existing standards, in accordance with rule 65D-30.005,
 142 Florida Administrative Code, for addictions receiving
 143 facilities.

144 Section 3. Paragraph (b) of subsection (11) of section
 145 394.655, Florida Statutes, is amended to read:

146 394.655 The Substance Abuse and Mental Health Corporation;
 147 powers and duties; composition; evaluation and reporting
 148 requirements.--

149 (11)

150 (b) The purpose of the council shall be to:

151 1. Align policy initiatives in the criminal justice,
 152 juvenile justice, and mental health systems to ensure the most
 153 effective use of resources and to coordinate the development of
 154 legislative proposals and budget requests relating to the shared
 155 needs of adults and juveniles who have a mental illness,
 156 substance abuse disorder, or co-occurring mental health and
 157 substance abuse disorders who are in, or at risk of entering,
 158 the criminal justice system.

159 2. Provide consultation in the development of
 160 comprehensive and cost-effective community-based mental health
 161 and substance abuse treatment services for individuals with
 162 mental illnesses receiving services in forensic facilities,
 163 prisons, jails, and juvenile justice centers. The council shall
 164 appoint an advisory committee to review and monitor the
 165 implementation of the Community Mental Health and Substance
 166 Abuse Treatment and Crime Reduction Act. The advisory committee

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167 shall include at least one person who has received services and
 168 one family member of a person receiving services under the act.

169 Section 4. Subsection (1) of section 394.656, Florida
 170 Statutes, is amended to read:

171 394.656 Criminal Justice, Mental Health, and Substance
 172 Abuse Reinvestment Grant Program.--

173 (1) There is created within the Department of Children and
 174 Family Services the Criminal Justice, Mental Health, and
 175 Substance Abuse Reinvestment Grant Program. The purpose of the
 176 program is to provide funding to counties with which they can
 177 plan, implement, or expand initiatives that increase public
 178 safety, avert increased spending on criminal justice, and
 179 improve the accessibility and effectiveness of treatment
 180 services for adults and juveniles who have a mental illness,
 181 substance abuse disorder, or co-occurring mental health and
 182 substance abuse disorders and who are in, or at risk of
 183 entering, the criminal or juvenile justice systems. In
 184 implementing the Community Mental Health and Substance Abuse
 185 Treatment and Crime Reduction Act, the department and the agency
 186 shall work in coordination with counties that received grants
 187 under the Criminal Justice, Mental Health, and Substance Abuse
 188 Reinvestment Grant Program pursuant to this section to develop
 189 local treatment and service delivery infrastructures.

190 Section 5. Subsection (1) of section 394.657, Florida
 191 Statutes, is amended to read:

192 394.657 County planning councils or committees.--

193 (1) Each board of county commissioners shall designate the
 194 county public safety coordinating council established under s.

195 951.26, or designate another criminal or juvenile justice mental
 196 health and substance abuse council or committee, as the planning
 197 council or committee. The public safety coordinating council or
 198 other designated criminal or juvenile justice mental health and
 199 substance abuse council or committee shall:

200 (a) Coordinate, ~~in coordination with~~ the county offices of
 201 planning and budget and, ~~shall~~ make a formal recommendation to
 202 the board of county commissioners regarding how the Criminal
 203 Justice, Mental Health, and Substance Abuse Reinvestment Grant
 204 Program may best be implemented within a community. The board of
 205 county commissioners may assign any entity to prepare the
 206 application on behalf of the county administration for
 207 submission to the corporation for review. A county may join with
 208 one or more counties to form a consortium and use a regional
 209 public safety coordinating council or another county-designated
 210 regional criminal or juvenile justice mental health and
 211 substance abuse planning council or committee for the geographic
 212 area represented by the member counties.

213 (b) Provide consultation regarding the planning and
 214 implementation of the Community Mental Health and Substance
 215 Abuse Treatment and Crime Reduction Act by the local governing
 216 bodies.

217 Section 6. Paragraphs (g), (h), (i), and (j) are added to
 218 subsection (1) of section 394.659, Florida Statutes, to read:

219 394.659 Criminal Justice, Mental Health, and Substance
 220 Abuse Technical Assistance Center.--

221 (1) There is created a Criminal Justice, Mental Health,
 222 and Substance Abuse Technical Assistance Center at the Louis de

223 la Parte Florida Mental Health Institute at the University of
 224 South Florida, which shall:

225 (g) In coordination with the department, develop minimum
 226 competencies and proficiencies required for communities and
 227 service providers.

228 (h) Identify evidence-based practices and deliver
 229 necessary training and consultation to service providers.

230 (i) Assist the department with the development of outcome
 231 measures.

232 (j) Provide an annual report to the Governor, the
 233 President of the Senate, the Speaker of the House of
 234 Representatives, the Chief Justice of the Florida Supreme Court,
 235 and the State Courts Administrator on the status of the
 236 implementation of the Community Mental Health and Substance
 237 Abuse Treatment and Crime Reduction Act. For those areas that
 238 also have a grant under s. 394.656, the institute shall prepare
 239 a joint report to avoid duplication.

240 Section 7. Subsection (21) of section 394.67, Florida
 241 Statutes, is amended to read:

242 394.67 Definitions.--As used in this part, the term:

243 (21) "Residential treatment center for children and
 244 adolescents" means a 24-hour residential program, including a
 245 therapeutic group home, which provides mental health services to
 246 emotionally disturbed children or adolescents as defined in s.
 247 394.492(5) or (6) and which is a private for-profit or not-for-
 248 profit corporation licensed by the agency ~~under contract with~~
 249 ~~the department~~ which offers a variety of treatment modalities in
 250 a more restrictive setting.

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251 Section 8. Subsections (1) and (4) of section 394.674,
252 Florida Statutes, are amended to read:

253 394.674 Client ~~Clinical~~ eligibility for publicly funded
254 substance abuse and mental health services; fee collection
255 requirements.--

256 (1) To be eligible to receive substance abuse and mental
257 health services funded by the department, a person must be a
258 member of one of the department's priority populations ~~target~~
259 ~~groups~~ approved by the Legislature, ~~pursuant to s. 216.0166.~~ The
260 priority populations include:

261 (a) For adult mental health services:

262 1. Adults who have severe and persistent mental illness,
263 as designated by the department using criteria that include
264 severity of diagnosis, duration of the mental illness, ability
265 to independently perform activities of daily living, and receipt
266 of disability income for a psychiatric condition. Within this
267 group priority populations include:

268 a. Older adults in crisis.

269 b. Older adults who are at risk of being placed in a more
270 restrictive environment because of their mental illness.

271 c. Persons deemed incompetent to proceed or not guilty by
272 reason of insanity under chapter 916.

273 d. Other persons involved in the criminal justice system.

274 e. Persons dually diagnosed as having co-occurring mental
275 health and substance abuse disorders.

276 2. Adults experiencing an acute mental or emotional crisis
277 as defined in s. 394.67(17).

278 (b) For children's mental health services:

- 279 | 1. Children who have a serious emotional disturbance.
- 280 | 2. Children who have an emotional disturbance.
- 281 | 3. Children who are at risk of emotional disturbance.
- 282 | (c) For substance abuse services:
- 283 | 1. Adults who have substance abuse disorders and have a
 284 | history of intravenous drug use.
- 285 | 2. Persons dually diagnosed as having co-occurring mental
 286 | health and substance abuse disorders.
- 287 | 3. Parents who put children at risk due to a substance
 288 | abuse disorder.
- 289 | 4. Persons who have a substance abuse disorder and have
 290 | been ordered by the court to receive treatment.
- 291 | 5. Children at risk for initiating drug use.
- 292 | 6. Children under state supervision.
- 293 | 7. Children who have a substance abuse disorder but are
 294 | not under the supervision of a court or in the custody of a
 295 | state agency.
- 296 | 8. Persons identified as a priority population as a
 297 | condition for receiving services funded through the Substance
 298 | Abuse Prevention and Treatment Block Grant.
- 299 | (4) The department shall adopt rules to implement client
 300 | ~~the clinical~~ eligibility, client enrollment, and fee collection
 301 | requirements for publicly funded substance abuse and mental
 302 | health services. The rules must require ~~that~~ each provider under
 303 | contract with the department that enrolls eligible persons into
 304 | treatment to develop a sliding fee scale for persons who have a
 305 | net family income at or above 150 percent of the Federal Poverty
 306 | Income Guidelines, unless otherwise required by state or federal

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307 law. The sliding fee scale must use the uniform schedule of
308 discounts by which a provider under contract with the department
309 discounts its established client charges for services supported
310 with state, federal, or local funds, using, at a minimum,
311 factors such as family income, financial assets, and family size
312 as declared by the person or the person's guardian. The rules
313 must include uniform criteria to be used by all service
314 providers in developing the schedule of discounts for the
315 sliding fee scale. The rules must address the most expensive
316 types of treatment, such as residential and inpatient treatment,
317 in order to make it possible for a client to responsibly
318 contribute to his or her mental health or substance abuse care
319 without jeopardizing the family's financial stability. A person
320 who is not eligible for Medicaid and whose net family income is
321 less than 150 percent of the Federal Poverty Income Guidelines
322 must pay a portion of his or her treatment costs which is
323 comparable to the copayment amount required by the Medicaid
324 program for Medicaid clients pursuant to s. 409.9081. The rules
325 must require that persons who receive financial assistance from
326 the Federal Government because of a disability and are in long-
327 term residential treatment settings contribute to their board
328 and care costs and treatment costs and must be consistent with
329 the provisions in s. 409.212.

330 Section 9. Section 394.9086, Florida Statutes, is created
331 to read:

332 394.9086 Community Mental Health and Substance Abuse
333 Treatment and Crime Reduction Act.--

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334 (1) SHORT TITLE.--This section may be cited as the
335 "Community Mental Health and Substance Abuse Treatment and Crime
336 Reduction Act."

337 (2) LEGISLATIVE FINDINGS AND INTENT.--The Legislature
338 finds that many inmates with serious mental illnesses who are
339 committed to state forensic mental health treatment facilities
340 for competency restoration could be served effectively and at
341 less cost in community-based alternative programs. The
342 Legislature further finds that many individuals with serious
343 mental illnesses who have been discharged from state forensic
344 mental health treatment facilities could avoid returning to the
345 criminal justice and forensic mental health system if they
346 received specialized treatment in the community. It is therefore
347 the intent of the Legislature to create the Community Mental
348 Health and Substance Abuse Forensic Treatment System to serve
349 individuals with mental illnesses or co-occurring mental health
350 and substance abuse disorders who are involved in or at risk of
351 entering forensic facilities, prisons, jails, juvenile justice
352 centers, and civil treatment facilities.

353 (3) GOALS.--The goals of the community mental health and
354 substance abuse forensic treatment system are to:

355 (a) Ensure that forensic competency restoration services
356 are provided in the least restrictive, least costly, and most
357 efficient environment.

358 (b) Provide competency restoration services in the
359 community, when appropriate, based on consideration of public
360 safety, needs of the individual, and available resources.

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361 (c) Reduce admissions for competency restoration to state
362 forensic mental health treatment facilities.

363 (d) Reduce rates of arrest, incarceration, and recidivism
364 for individuals in the program.

365 (e) Ensure public safety.

366 (f) Increase outreach and services to individuals at risk
367 of criminal justice system, juvenile justice system, and
368 forensic mental health system involvement.

369 (g) Support collaboration among local law enforcement,
370 judicial, correctional, governmental, service provider, and
371 community stakeholders to implement diversion and problem-
372 solving strategies to reduce the demand for forensic mental
373 health placements.

374 (4) DEFINITIONS.--

375 (a) "Agency" means the Agency for Health Care
376 Administration.

377 (b) "Community residential facility" means a community-
378 based residential treatment setting licensed by the agency under
379 s. 394.875 or s. 429.075 or licensed by the department under s.
380 397.401.

381 (c) "Department" means the Department of Children and
382 Family Services.

383 (d) "Evidence-based practices" means interventions and
384 strategies that, based on the best available empirical research,
385 demonstrate effective and efficient outcomes in the care and
386 treatment of individuals diagnosed with mental illnesses or co-
387 occurring mental health and substance abuse disorders.

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388 (e) "Forensic intensive care management" means activities
389 that address the comprehensive psychiatric, social, and support
390 needs of individuals diagnosed with serious and persistent
391 mental illnesses or severe emotional disturbances who are
392 involved in the justice system and receive services under this
393 section. Activities include, but are not limited to, service
394 planning, service coordination, monitoring, and assistance with
395 accessing federal, state, and local benefits necessary to
396 sustain an individual in the community.

397 (f) "Forensic treatment system" means a community mental
398 health and substance abuse forensic treatment system that
399 includes the comprehensive set of services and supports provided
400 to individuals under this section.

401 (g) "Geographic area" means a county, circuit, regional,
402 or multiregional area in the state.

403 (5) COMMUNITY MENTAL HEALTH AND SUBSTANCE ABUSE FORENSIC
404 TREATMENT SYSTEM.--The department, in consultation with the
405 agency, shall develop and implement a community mental health
406 and substance abuse forensic treatment system. The forensic
407 system shall build on the local community diversion and re-entry
408 initiatives and strategies that are consistent with those
409 identified and supported under s. 394.658(1)(b).

410 (a) The forensic system initiatives and strategies may
411 include, but are not limited to:

- 412 1. Mental health courts;
- 413 2. Diversion programs;
- 414 3. Alternative prosecution and sentencing techniques;
- 415 4. Crisis intervention teams;

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- 416 5. Treatment accountability services;
- 417 6. Specialized training for criminal justice, juvenile
418 justice, and treatment services professionals;
- 419 7. Specialized probation officers at the state and county
420 levels to serve individuals under correctional control in the
421 community;
- 422 8. Collateral services such as housing, transitional
423 housing, and supported employment; and
- 424 9. Reentry services to create or expand mental health and
425 substance abuse treatment and supports for affected individuals.
- 426 (b) The forensic system must include a comprehensive
427 continuum of care and services that use evidence-based practices
428 to address co-occurring mental health and substance abuse
429 disorders. The forensic system must include the following
430 minimum elements:
- 431 1. Competency restoration and treatment services provided
432 in a variety of settings from least restrictive to progressively
433 more restrictive settings;
- 434 2. Forensic intensive care management;
- 435 3. Supported housing;
- 436 4. Supported employment;
- 437 5. Medication management;
- 438 6. Trauma-specific services for treatment of the effects
439 of sexual, physical, and emotional abuse or trauma experienced
440 by individuals with mental illnesses involved in the criminal
441 justice system. These services may include behavioral therapies,
442 desensitization therapies, grounding techniques, and other
443 services;

444 7. Residential services to address crisis episodes and
445 short-term residential treatment. In addition, alternate models
446 for services in crisis stabilization units or short-term
447 residential treatment facilities may be used that provide care
448 in a less restrictive setting and at lower cost;

449 8. Treatment for co-occurring mental health and substance
450 abuse disorders; and

451 9. Other services or supports identified by the department
452 working with the agency, the Substance Abuse and Mental Health
453 Corporation, and local governing bodies.

454 (6) ELIGIBILITY.--The department may serve individuals who
455 meet the criteria in paragraphs (a)-(c). The department shall
456 give highest priority for services provided under this section
457 to the following in rank order:

458 (a) Adults who are adjudicated incompetent to proceed or
459 not guilty by reason of insanity under chapter 916, who have
460 been ordered by the court into forensic commitment, whose
461 current most serious charge is a third degree or nonviolent
462 second degree felony, and who meet public safety criteria
463 established by the court and treatability criteria established
464 by the department for placement in a community setting.

465 (b) Adults who are released or pending release into the
466 community by the courts after completing competency restoration
467 services at a state forensic mental health treatment facility.

468 (c) Adults who experience serious and persistent mental
469 illnesses who are at risk of entering or who are already
470 involved with the criminal justice system as evidenced by their
471 frequency of contact with the system.

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472 (7) DEPARTMENT RESPONSIBILITIES.--The department shall
473 develop a continuum of services to implement the community
474 mental health and substance abuse forensic treatment system in
475 accordance with subsection (5). The department shall:

476 (a) Establish standards for all providers, including, but
477 not limited to, community-based providers that administer
478 competency restoration services in a community residential
479 facility or a less restrictive setting.

480 (b) Define requirements for all providers in the forensic
481 system and set ongoing performance expectations.

482 (c) Select demonstration sites for participation based on
483 the criteria in subsection (8) that demonstrate active and
484 sustained participation in and collaboration with the community.

485 (d) Enter into memorandums of agreement with county
486 planning councils or committees identified in s. 394.657 that
487 are included in the demonstration sites.

488 (e) Identify providers to implement the continuum of
489 services. The department shall consult with county planning
490 councils or committees when selecting providers.

491 (f) Enter into contracts with appropriate providers.

492 (g) Establish performance measures and reporting
493 requirements for providers participating in the forensic system.
494 The measures shall include, at a minimum:

495 1. Number of individuals diverted from state forensic
496 facilities;

497 2. Number of individuals diverted from the criminal
498 justice system;

499 3. Rates of arrest, incarceration, and recidivism for new
 500 criminal offenses;

501 4. Rates of employment;

502 5. Number of days in jails, prisons, and forensic
 503 facilities on an annual basis; and

504 6. Satisfaction of key community stakeholder participants
 505 and local partners with the initiative, including, at a minimum,
 506 input from individuals who have received services under this
 507 section and family members of individuals receiving services
 508 under this section, county planning councils or committees, and
 509 participating providers.

510 (h) Monitor contracts for compliance with terms and, at
 511 least annually, to the extent possible, perform joint onsite
 512 monitoring with the agency, the Substance Abuse and Mental
 513 Health Corporation, and the Criminal Justice, Mental Health, and
 514 Substance Abuse Technical Assistance Center established under s.
 515 394.659 to assess performance as evidenced by the quality,
 516 efficiency, and effectiveness of the care provided.

517 (8) DEMONSTRATION SITES.--The department in consultation
 518 with the agency shall identify up to three geographic areas of
 519 the state for initial implementation of this section.

520 (a) In at least one area, the department shall establish a
 521 single point of accountability for the forensic system and, if
 522 feasible, contract with a managing entity as defined in s.
 523 394.9082 to provide operational oversight of subcontractors and
 524 daily operations. When feasible, payment for these services
 525 shall be based on a prepaid capitation rate.

526 (b) All areas shall be selected based on a determination
527 of community readiness and the potential for impacting the
528 greatest number of individuals entering the forensic mental
529 health and criminal justice systems. Criteria for selection may
530 include:

531 1. Community readiness to deliver services as outlined in
532 subsection (5) and demonstrated by well-established community
533 collaboration plans and local partnerships as evidenced by
534 memorandums of agreement that are submitted to and approved by
535 the department;

536 2. A high forensic bed utilization rate in the state
537 mental health treatment facilities;

538 3. Successful application for implementation grant funding
539 under s. 394.656, the Criminal Justice, Mental Health, and
540 Substance Abuse Reinvestment Grant Program; and

541 4. Other elements determined by the department in
542 consultation with the agency.

543 (9) RULEMAKING AUTHORITY.--The department shall adopt
544 rules to implement the Community Mental Health and Substance
545 Abuse Treatment and Crime Reduction Act.

546 Section 10. Subsection (26) is added to section 409.906,
547 Florida Statutes, to read:

548 409.906 Optional Medicaid services.--Subject to specific
549 appropriations, the agency may make payments for services which
550 are optional to the state under Title XIX of the Social Security
551 Act and are furnished by Medicaid providers to recipients who
552 are determined to be eligible on the dates on which the services
553 were provided. Any optional service that is provided shall be

554 provided only when medically necessary and in accordance with
 555 state and federal law. Optional services rendered by providers
 556 in mobile units to Medicaid recipients may be restricted or
 557 prohibited by the agency. Nothing in this section shall be
 558 construed to prevent or limit the agency from adjusting fees,
 559 reimbursement rates, lengths of stay, number of visits, or
 560 number of services, or making any other adjustments necessary to
 561 comply with the availability of moneys and any limitations or
 562 directions provided for in the General Appropriations Act or
 563 chapter 216. If necessary to safeguard the state's systems of
 564 providing services to elderly and disabled persons and subject
 565 to the notice and review provisions of s. 216.177, the Governor
 566 may direct the Agency for Health Care Administration to amend
 567 the Medicaid state plan to delete the optional Medicaid service
 568 known as "Intermediate Care Facilities for the Developmentally
 569 Disabled." Optional services may include:

570 (26) HOME AND COMMUNITY-BASED MENTAL HEALTH SERVICES.--The
 571 agency is authorized to seek federal approval through a state
 572 plan amendment to implement home and community-based services
 573 under the authority of and in compliance with s. 1915(i) of the
 574 Social Security Act for services for individuals who have been
 575 determined by an independent evaluation to have disabilities
 576 that cause them to become, or put them at risk of becoming,
 577 involved with the criminal justice system due to mental illness.
 578 In accordance with allowances under the authority of s. 1915(i)
 579 of the Social Security Act, these services may be limited to a
 580 select number of eligible individuals, in select geographic
 581 areas as identified by the agency. An eligible individual may

582 have an income of up to 150 percent of the federal poverty
 583 level. The agency shall coordinate with the department to select
 584 and define the services to be submitted in the state plan
 585 amendment and provided under this subsection. The agency must
 586 receive approval from the Legislature or the Legislative Budget
 587 Commission before implementing the state plan amendment.

588 Section 11. Subsection (1) of section 553.80, Florida
 589 Statutes, is amended to read:

590 553.80 Enforcement.--

591 (1) Except as provided in paragraphs (a)-(g) ~~(a)-(f)~~, each
 592 local government and each legally constituted enforcement
 593 district with statutory authority shall regulate building
 594 construction and, where authorized in the state agency's
 595 enabling legislation, each state agency shall enforce the
 596 Florida Building Code required by this part on all public or
 597 private buildings, structures, and facilities, unless such
 598 responsibility has been delegated to another unit of government
 599 pursuant to s. 553.79(9).

600 (a) Construction regulations relating to correctional
 601 facilities under the jurisdiction of the Department of
 602 Corrections and the Department of Juvenile Justice shall ~~are to~~
 603 be enforced exclusively by those departments.

604 (b) Construction regulations relating to elevator
 605 equipment under the jurisdiction of the Bureau of Elevators of
 606 the Department of Business and Professional Regulation shall be
 607 enforced exclusively by that department.

608 (c) Construction regulations relating to secure mental
 609 health treatment facilities under the jurisdiction of the

610 Department of Children and Family Services shall be enforced
611 exclusively by that department.

612 (d)~~(e)~~ In addition to the requirements of s. 553.79 and
613 this section, facilities subject to the provisions of chapter
614 395 and part II of chapter 400 shall have facility plans
615 reviewed and construction surveyed by the state agency
616 authorized to do so under the requirements of chapter 395 and
617 part II of chapter 400 and the certification requirements of the
618 Federal Government.

619 (e)~~(d)~~ Building plans approved under s. 553.77(3) and
620 state-approved manufactured buildings, including buildings
621 manufactured and assembled offsite and not intended for
622 habitation, such as lawn storage buildings and storage sheds,
623 are exempt from local code enforcing agency plan reviews except
624 for provisions of the code relating to erection, assembly, or
625 construction at the site. Erection, assembly, and construction
626 at the site are subject to local permitting and inspections.
627 Lawn storage buildings and storage sheds bearing the insignia of
628 approval of the department are not subject to s. 553.842. Such
629 buildings that do not exceed 400 square feet may be delivered
630 and installed without need of a contractor's or specialty
631 license.

632 (f)~~(e)~~ Construction regulations governing public schools,
633 state universities, and community colleges shall be enforced as
634 provided in subsection (6).

635 (g)~~(f)~~ The Florida Building Code as it pertains to toll
636 collection facilities under the jurisdiction of the turnpike

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637 enterprise of the Department of Transportation shall be enforced
638 exclusively by the turnpike enterprise.

639
640 The governing bodies of local governments may provide a schedule
641 of fees, as authorized by s. 125.56(2) or s. 166.222 and this
642 section, for the enforcement of the provisions of this part.

643 Such fees shall be used solely for carrying out the local
644 government's responsibilities in enforcing the Florida Building
645 Code. The authority of state enforcing agencies to set fees for
646 enforcement shall be derived from authority existing on July 1,
647 1998. However, nothing contained in this subsection shall
648 operate to limit such agencies from adjusting their fee schedule
649 in conformance with existing authority.

650 Section 12. Section 916.111, Florida Statutes, is amended
651 to read:

652 916.111 Training of mental health experts.--The evaluation
653 of defendants for competency to proceed or for sanity at the
654 time of the commission of the offense shall be conducted in such
655 a way as to ensure uniform application of the criteria
656 enumerated in Rules 3.210 and 3.216, Florida Rules of Criminal
657 Procedure.

658 (1) A forensic evaluator training course approved by the
659 department must be offered at least annually to ensure that
660 mental health experts have the opportunity to qualify to be
661 placed on the department's forensic evaluator registry.

662 (a) Beginning July 1, 2009, an expert shall remain on the
663 registry if he or she has completed or retaken the required
664 training within the previous 5 years. Those who have not

665 completed the required training within the previous 5 years
666 shall be removed from the registry and may not conduct
667 evaluations for the courts.

668 (b) A mental health professional who has completed the
669 training course within the previous 5 years is responsible for
670 maintaining documentation of completion of the required training
671 and providing the department with current contact information
672 during the 5-year period.

673 (2) The department shall develop, and may contract with
674 accredited institutions:

675 (a) ~~(1)~~ To provide:

676 1. ~~(a)~~ A plan for training mental health professionals to
677 perform forensic evaluations and to standardize the criteria and
678 procedures to be used in these evaluations;

679 2. ~~(b)~~ Clinical protocols and procedures based upon the
680 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal
681 Procedure; and

682 3. ~~(e)~~ Training for mental health professionals in the
683 application of these protocols and procedures in performing
684 forensic evaluations and providing reports to the courts; and

685 (b) ~~(2)~~ To compile and maintain the necessary information
686 for evaluating the success of this program, including the number
687 of persons trained, the cost of operating the program, and the
688 effect on the quality of forensic evaluations as measured by
689 appropriateness of admissions to state forensic facilities and
690 to community-based care programs.

691 Section 13. Subsection (1) of section 916.115, Florida
692 Statutes, is amended to read:

693 916.115 Appointment of experts.--

694 (1) The court shall appoint no more than three experts to
 695 determine the mental condition of a defendant in a criminal
 696 case, including competency to proceed, insanity, involuntary
 697 placement, and treatment. The experts may evaluate the defendant
 698 in jail or in another appropriate local facility or in a
 699 facility of the Department of Corrections.

700 (a) ~~To the extent possible, the~~ Appointed experts must
 701 ~~shall~~ have completed forensic evaluator training as provided in
 702 s. 916.111 approved by the department, and each shall be a
 703 psychiatrist, licensed psychologist, or physician.

704 (b) Graduate students completing a practicum or
 705 internship, psychological specialists or counselors, and
 706 postdoctoral fellows at the state's mental health treatment
 707 facilities may assist in the evaluation process as long as their
 708 reports are overseen and signed by a supervising evaluator who
 709 has completed forensic evaluator training within the previous 5
 710 years.

711 (c) ~~(b)~~ The department shall maintain and annually provide
 712 the courts with a forensic evaluator registry list of available
 713 mental health professionals who have completed the approved
 714 training as experts.

715 Section 14. Section 916.13, Florida Statutes, is amended
 716 to read:

717 916.13 Involuntary commitment of defendant adjudicated
 718 incompetent.--

719 (1) Every defendant who is charged with a felony and who
 720 is adjudicated incompetent to proceed, except a defendant who is

721 serving a sentence in the custody of the Department of
 722 Corrections, may be involuntarily committed for treatment upon a
 723 finding by the court of clear and convincing evidence that:

724 (a) The defendant has a mental illness and because of the
 725 mental illness:

726 1. The defendant is manifestly incapable of surviving
 727 alone or with the help of willing and responsible family or
 728 friends, including available alternative services, and, without
 729 treatment, the defendant is likely to suffer from neglect or
 730 refuse to care for herself or himself and such neglect or
 731 refusal poses a real and present threat of substantial harm to
 732 the defendant's well-being; or

733 2. There is a substantial likelihood that in the near
 734 future the defendant will inflict serious bodily harm on herself
 735 or himself or another person, as evidenced by recent behavior
 736 causing, attempting, or threatening such harm;

737 (b) All available, less restrictive treatment
 738 alternatives, including treatment in community residential
 739 facilities or community inpatient or outpatient settings, which
 740 would offer an opportunity for improvement of the defendant's
 741 condition have been judged to be inappropriate; and

742 (c) There is a substantial probability that the mental
 743 illness causing the defendant's incompetence will respond to
 744 treatment and the defendant will regain competency to proceed in
 745 the reasonably foreseeable future.

746 (2) (a) A defendant who has been charged with a felony and
 747 who has been adjudicated incompetent to proceed due to mental
 748 illness, and who meets the criteria for involuntary commitment

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749 to the department under the provisions of this chapter, may be
750 committed to the department, and the department shall retain and
751 treat the defendant. No later than 6 months after the date of
752 admission and at the end of any period of extended commitment,
753 or at any time the administrator or designee shall have
754 determined that the defendant has regained competency to proceed
755 or no longer meets the criteria for continued commitment, the
756 administrator or designee shall file a report with the court
757 pursuant to the applicable Florida Rules of Criminal Procedure.

758 (b) A defendant who is serving a sentence in the custody
759 of the Department of Corrections and who has been charged with a
760 new felony, or a defendant who is entitled to a mandatory appeal
761 pursuant to Rule 3.851, Florida Rules of Criminal Procedure, and
762 who has been adjudicated incompetent to proceed due to mental
763 illness shall be retained in the physical custody of the
764 Department of Corrections, which shall administer a lesson plan
765 for competency restoration training provided by the department.
766 No later than 6 months after the date on which the lesson plan
767 for competency restoration training is provided, and every 12
768 months thereafter, or at any time the department has determined
769 that the defendant has regained competency to proceed, the
770 department shall file a report with the court pursuant to the
771 applicable Florida Rules of Criminal Procedure.

772 (3) Whether housed in a department facility or a
773 Department of Corrections facility, within 15 days after the
774 court receives notification from the department that the
775 defendant is competent to proceed or no longer meets the
776 criteria for continued commitment, the defendant shall be

777 transported back to jail pursuant to s. 916.107(10) for the
 778 purpose of holding a competency hearing.

779 (4) A competency hearing shall be held within 30 days
 780 after a court receives notice from the department that a
 781 defendant is competent to proceed.

782 Section 15. Section 916.15, Florida Statutes, is amended
 783 to read:

784 916.15 Involuntary commitment of defendant adjudicated not
 785 guilty by reason of insanity.--

786 (1) The determination of whether a defendant is not guilty
 787 by reason of insanity shall be determined in accordance with
 788 Rule 3.217, Florida Rules of Criminal Procedure.

789 (2) A defendant who is acquitted of criminal charges
 790 because of a finding of not guilty by reason of insanity, except
 791 a defendant who is serving a sentence in the custody of the
 792 Department of Corrections, may be involuntarily committed
 793 pursuant to such finding if the defendant has a mental illness
 794 and, because of the illness, is manifestly dangerous to himself
 795 or herself or others.

796 (3) Every defendant acquitted of criminal charges by
 797 reason of insanity and found to meet the criteria for
 798 involuntary commitment, except a defendant who is serving a
 799 sentence in the custody of the Department of Corrections, may be
 800 committed to the department and treated in accordance with the
 801 provisions of this section and the applicable Florida Rules of
 802 Criminal Procedure. The department shall admit a defendant so
 803 adjudicated to an appropriate facility or program for treatment
 804 and shall retain and treat such defendant.

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805 (a) No later than 6 months after the date of admission,
806 prior to the end of any period of extended commitment, or at any
807 time the administrator or designee shall have determined that
808 the defendant no longer meets the criteria for continued
809 commitment placement, the administrator or designee shall file a
810 report with the court pursuant to the applicable Florida Rules
811 of Criminal Procedure.

812 (b) Whether housed in a department facility or a
813 Department of Corrections facility, within 15 days after the
814 court receives notification from the department that the
815 defendant no longer meets the criteria for continued commitment,
816 the defendant shall be transported back to jail pursuant to s.
817 916.107(10) for the purpose of holding a competency hearing.

818 (c) A commitment hearing shall be held within 30 days
819 after the court receives notification from the department that a
820 defendant no longer meets the criteria for continued commitment
821 placement.

822 (4) A defendant who is serving a sentence in the custody
823 of the Department of Corrections and who has been charged with a
824 new felony and has been adjudicated not guilty by reason of
825 insanity shall be retained in the physical custody of the
826 Department of Corrections for the remainder of the defendant's
827 sentence. No later than 30 days prior to the anticipated release
828 date, the department shall evaluate the defendant and file a
829 report with the court requesting that the defendant be returned
830 to the court's jurisdiction to determine if the defendant
831 continues to meet the criteria for continued commitment
832 placement.

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833 ~~(5)-(4)~~ In all proceedings under this section, both the
834 defendant and the state shall have the right to a hearing before
835 the committing court. Evidence at such hearing may be presented
836 by the hospital administrator or the administrator's designee as
837 well as by the state and the defendant. The defendant shall have
838 the right to counsel at any such hearing. In the event that a
839 defendant is determined to be indigent pursuant to s. 27.52, the
840 public defender shall represent the defendant. The parties shall
841 have access to the defendant's records at the treating
842 facilities and may interview or depose personnel who have had
843 contact with the defendant at the treating facilities.

844 Section 16. Subsections (2) and (3) of section 916.17,
845 Florida Statutes, are renumbered as subsections (3) and (4),
846 respectively, and a new subsection (2) is added to that section
847 to read:

848 916.17 Conditional release.--

849 (2) A defendant who otherwise meets the criteria for
850 involuntary commitment under s. 916.13 but whose current most
851 serious charge is a third degree or nonviolent second degree
852 felony must be placed in a community residential facility for
853 competency restoration in demonstration areas established under
854 the Community Mental Health and Substance Abuse Treatment and
855 Crime Reduction Act in s. 394.9086, unless bed space or funding
856 is unavailable for the community placement or the trial court
857 makes an explicit finding that the defendant cannot be safely
858 managed in such a placement. In making the determination under
859 this subsection, the court shall consider all of the following:

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- 860 (a) The nature and seriousness of the crime or crimes
861 allegedly committed.
- 862 (b) The individual's criminal history.
- 863 (c) The individual's psychiatric history.
- 864 (d) The individual's history of violent behavior or
865 threats of violent behavior and risk of harm to self or others.
- 866 (e) The likelihood that the individual will comply with
867 and benefit from the mental health treatment and services being
868 recommended.
- 869 (f) Availability of appropriate community-based services
870 and treatment settings.
- 871 (g) Other information considered relevant by the court.
- 872 Section 17. This act shall take effect July 1, 2008.