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1 A bill to be entitled
2 An act relating to the Department of Corrections; amending
3 s. 921.187, F.S.; deleting certain provisions limiting
4 circumstances under which an offender may be placed in
5 community control; amending s. 943.16, F.S.; eliminating
6 provisions requiring that a law enforcement officer
7 reimburse the employing agency for wages and benefits paid
8 by the employing agency if the officer terminates
9 employment before the end of a 2-year commitment period;
10 eliminating wages and benefits from the costs that
11 employing agencies may recover; eliminating the definition
12 of the term "academy training period"; amending s.
13 944.1905, F.S.; authorizing the department to assign
14 certain young adult offenders to a facility for youthful
15 offenders until the offender reaches a specified age;
16 deleting provisions requiring that certain young adult
17 offenders be housed and provided certain services
18 separately from older offenders; amending s. 944.47, F.S.;
19 providing that a cellular telephone or other portable
20 communication device that is introduced inside the secure
21 perimeter of a state correctional institution without
22 prior authorization is contraband; prohibiting an inmate
23 or other person upon the grounds of the institution from
24 possessing such contraband without authorization;
25 providing a definition; providing criminal penalties;
26 amending s. 948.01, F.S.; deleting the requirement that a
27 court using a specified alternative to a sentence of
28 incarceration require the Department of Corrections to

29 provide certain notifications; amending s. 948.10, F.S.;

30 deleting a requirement that community control programs and

31 manuals be developed in consultation with the Florida

32 Conference of Circuit Court Judges and the State Courts

33 Administrator; deleting the prohibition on sentencing

34 offenders convicted of certain forcible felonies to

35 community control; deleting requirements for the

36 department in developing and implementing community

37 control programs, resource directories, and training

38 programs; deleting a requirement for the Florida Court

39 Education Council and the State Courts Administrator to

40 coordinate certain resources for judges pertaining to

41 community control; eliminating provisions governing review

42 and notice by the department of offenders ineligible for

43 community control and requiring the department to develop

44 a caseload equalization strategy; conforming provisions to

45 deletion of the prohibition on sentencing offenders

46 convicted of certain forcible felonies to community

47 control; amending s. 958.04, F.S.; authorizing the court

48 to sentence a person as a youthful offender if the

49 offender is younger than 21 years of age at the time

50 sentence is imposed; requiring the Department of

51 Corrections to adopt by rule criteria to define successful

52 participation in the youthful offender program; amending

53 s. 958.11, F.S.; removing the specific designation of

54 youthful offender facilities for housing female offenders;

55 revising requirements for the department with respect to

56 assigning or transferring youthful offenders; removing

57 | references to the Assistant Secretary for Youthful
58 | Offenders; amending s. 958.12, F.S.; removing the
59 | requirement for a youthful offender to be visited by a
60 | probation and parole officer before release; removing the
61 | requirement for the department to develop community
62 | partnerships with the Department of Labor and Employment
63 | Security and the Department of Children and Family
64 | Services and including private agencies as possible
65 | partners in such partnerships; amending s. 120.57, F.S.;
66 | allowing administrative law judges to appoint private pro
67 | bono attorneys in hearings on the continued placement of
68 | inmates under a specified provision; amending s. 945.41,
69 | F.S.; eliminating a requirement that the Department of
70 | Corrections contract with the Department of Children and
71 | Family Services to provide certain mental health services;
72 | authorizing the Department of Corrections to contract with
73 | other entities or persons to provide mental health
74 | services to inmates; amending s. 945.42, F.S.; revising
75 | definitions and defining the term "crisis stabilization
76 | care"; amending s. 945.43, F.S.; revising the procedures
77 | for placing an inmate in a mental health treatment
78 | facility; authorizing the court to waive the presence of
79 | the inmate at the hearing on the inmate's placement;
80 | amending s. 945.44, F.S.; providing for the emergency
81 | placement of an inmate in a mental health treatment
82 | facility; amending s. 945.45, F.S.; revising the
83 | provisions governing the continued placement of an inmate
84 | in a mental health treatment facility; authorizing an

85 | administrative law judge to appoint a private pro bono
86 | attorney to represent an inmate in continued placement
87 | hearings; providing that the administrative law judge may
88 | waive the presence of the inmate at the hearing under
89 | certain conditions; amending s. 945.46, F.S.; authorizing
90 | the warden to initiate procedures for the involuntary
91 | examination of an inmate who has a mental illness and
92 | meets certain criteria; amending s. 945.47, F.S. ;
93 | providing for the transfer of an inmate who is no longer
94 | in need of mental health treatment; deleting certain
95 | provisions governing involuntary placement; requiring that
96 | a summary of the inmate's treatment be provided to the
97 | Parole Commission and the Department of Children and
98 | Family Services upon request; amending s. 945.48, F.S. ;
99 | revising the procedure for the involuntary mental health
100 | treatment of an inmate; providing for the warden of the
101 | institution containing the mental health treatment
102 | facility to petition the circuit court for an order
103 | authorizing involuntary treatment; providing requirements
104 | for the hearing on involuntary treatment; limiting the
105 | period that an order authorizing involuntary treatment is
106 | effective; providing a procedure for emergency treatment;
107 | amending s. 945.49, F.S. ; deleting a provision requiring
108 | that training provided to correctional officers employed
109 | by a mental health treatment facility be in accordance
110 | with the requirements of the Criminal Justice Standards
111 | and Training Commission; deleting a requirement that a
112 | specified number of administrative law judges be assigned

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113 to conduct hearings on continued placement of inmates;
 114 requiring that inmates receiving mental health treatment
 115 be subject to the same standards applied to other inmates
 116 in the department; providing an effective date.

117
 118 Be It Enacted by the Legislature of the State of Florida:

119
 120 Section 1. Subsections (2), (3), and (4) of section
 121 921.187, Florida Statutes, are amended to read:

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

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

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

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

129
 130 ~~Nothing in this subsection prohibits placement of certain~~
 131 ~~inmates on community control pursuant to s. 947.1747. For~~
 132 ~~purposes of this subsection, a forcible felony does not include~~
 133 ~~manslaughter or burglary.~~

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

139 (3)~~(4)~~ The court shall require an offender to make
 140 restitution under s. 775.089, unless the court finds clear and

141 compelling reasons not to order such restitution. If the court
 142 does not order restitution, or orders restitution of only a
 143 portion of the damages, as provided in s. 775.089, the court
 144 shall state the reasons on the record in detail. An order
 145 requiring an offender to make restitution to a victim under s.
 146 775.089 does not remove or diminish the requirement that the
 147 court order payment to the Crimes Compensation Trust Fund under
 148 chapter 960.

149 Section 2. Section 943.16, Florida Statutes, is amended to
 150 read:

151 943.16 Payment of tuition or officer certification
 152 examination fee by employing agency; reimbursement of tuition,
 153 other course expenses, wages, and benefits.--

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

157 (2)~~(a)~~ A trainee who attends such approved training
 158 program at the expense of an employing agency must remain in the
 159 employment or appointment of such employing agency for a period
 160 of not less than 2 years after graduation from the basic recruit
 161 training program. If employment or appointment is terminated on
 162 the trainee's own initiative within 2 years, he or she shall
 163 reimburse the employing agency for the full cost of his or her
 164 tuition and, other course expenses, ~~and additional amounts as~~
 165 ~~provided in paragraph (b).~~

166 ~~(b) In addition to reimbursement for the full cost of~~
 167 ~~tuition and other course expenses, a trainee terminating~~
 168 ~~employment as provided in paragraph (a) shall reimburse the~~

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169 ~~employing agency for the trainee's wages and benefits paid by~~
170 ~~the employing agency during the academy training period~~
171 ~~according to the following schedule:~~

172 ~~1. For a trainee terminating employment within 6 months of~~
173 ~~graduation from the basic recruit training program, the full~~
174 ~~amount of wages and benefits paid during the academy training~~
175 ~~period.~~

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

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

185 ~~4. For a trainee terminating employment within 18 months~~
186 ~~and 1 day to 24 months of graduation from the basic recruit~~
187 ~~training program, an amount equal to one-fourth of the full~~
188 ~~amount of wages and benefits paid during the academy training~~
189 ~~period.~~

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

193 (4) An employing agency may institute a civil action to
194 collect such cost of tuition and, other course expenses, ~~wages,~~
195 ~~and benefits~~ as provided in this section if it is not
196 reimbursed, provided that the employing agency gave written

197 notification to the trainee of the 2-year employment commitment
 198 during the employment screening process. The trainee shall
 199 return signed acknowledgment of receipt of such notification.

200 (5) For purposes of this section, ~~"academy training~~
 201 ~~period" means the period of time that a trainee is attending an~~
 202 ~~approved basic recruit training program in a law enforcement or~~
 203 ~~correctional officer academy class for purposes of obtaining~~
 204 ~~certification pursuant to this chapter, until the date of~~
 205 ~~graduation from such class.~~ the term "other course expenses"
 206 includes the cost of meals.

207 (6) This section does not apply to trainees who terminate
 208 employment with the employing agency and resign their
 209 certification upon termination in order to obtain employment for
 210 which certification under this chapter is not required. Further,
 211 this section does not apply to trainees attending auxiliary
 212 officer training.

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

217 Section 3. Subsection (5) of section 944.1905, Florida
 218 Statutes, is amended to read:

219 944.1905 Initial inmate classification; inmate
 220 reclassification.--The Department of Corrections shall classify
 221 inmates pursuant to an objective classification scheme. The
 222 initial inmate classification questionnaire and the inmate
 223 reclassification questionnaire must cover both aggravating and
 224 mitigating factors.

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225 (5) (a) Notwithstanding any other provision of this section
226 or chapter 958, the department shall assign to facilities
227 housing youthful offenders ~~specific correctional facilities~~ all
228 inmates who are less than 18 years of age and who are ~~not~~
229 ~~eligible for~~ and have not been assigned to a facility for
230 youthful offenders under the provisions of chapter 958. Such an
231 inmate shall be assigned to a facility for youthful offenders
232 until the inmate is 18 years of age; however, the department may
233 assign the inmate to a facility for youthful offenders until the
234 inmate reaches an age not to exceed 21 years if the department
235 determines that the continued assignment is in the best
236 interests of the inmate and the assignment does not pose an
237 unreasonable risk to other inmates in the facility. ~~Any such~~
238 ~~inmate who is less than 18 years of age shall be housed in a~~
239 ~~dormitory that is separate from inmates who are 18 years of age~~
240 ~~or older. Furthermore, the department shall provide any food~~
241 ~~service, education, and recreation for such inmate separately~~
242 ~~from inmates who are 18 years of age or older.~~

243 ~~(b) Notwithstanding the requirements of s. 958.11, any~~
244 ~~inmate who is less than 18 years of age, who was 15 years of age~~
245 ~~or younger at the time of his or her offense, and who has no~~
246 ~~prior juvenile adjudication must be placed in a facility for~~
247 ~~youthful offenders until the inmate is 18 years of age. At the~~
248 ~~discretion of the department, such an inmate may be placed in a~~
249 ~~facility for youthful offenders until the inmate is 21 years of~~
250 ~~age.~~

251 (b) (e) Any inmate who is assigned to a facility under
252 paragraph (a) is subject to the provisions of s. 958.11

253 regarding facility assignments, and ~~or paragraph (b)~~ shall be
 254 removed and reassigned to the general inmate population if his
 255 or her behavior threatens the safety of other inmates or
 256 correctional staff.

257 Section 4. Paragraph (a) of subsection (1) and subsection
 258 (2) of section 944.47, Florida Statutes, are amended to read:

259 944.47 Introduction, removal, or possession of certain
 260 articles unlawful; penalty.--

261 (1)(a) Except through regular channels as authorized by
 262 the officer in charge of the correctional institution, it is
 263 unlawful to introduce into or upon the grounds of any state
 264 correctional institution, or to take or attempt to take or send
 265 or attempt to send therefrom, any of the following articles
 266 which are hereby declared to be contraband for the purposes of
 267 this section, to wit:

268 1. Any written or recorded communication or any currency
 269 or coin given or transmitted, or intended to be given or
 270 transmitted, to any inmate of any state correctional
 271 institution.

272 2. Any article of food or clothing given or transmitted,
 273 or intended to be given or transmitted, to any inmate of any
 274 state correctional institution.

275 3. Any intoxicating beverage or beverage which causes or
 276 may cause an intoxicating effect.

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

280 5. Any firearm or weapon of any kind or any explosive
281 substance.

282 6. Any cellular telephone or other portable communication
283 device intentionally and unlawfully introduced inside the secure
284 perimeter of any state correctional institution without prior
285 authorization or consent from the officer in charge of such
286 correctional institution. As used in this subparagraph, the term
287 "portable communication device" means any device carried, worn,
288 or stored which is designed or intended to receive or transmit
289 verbal or written messages, access or store data, or connect
290 electronically to the Internet or any other electronic device
291 and which allows communications in any form. Such devices
292 include, but are not limited to, portable two-way pagers, hand-
293 held radios, cellular telephones, Blackberry-type devices,
294 personal digital assistants or PDA's, laptop computers, or any
295 components of these devices which are intended to be used to
296 assemble such devices. The term also includes any new technology
297 that is developed for similar purposes. Excluded from this
298 definition is any device having communication capabilities which
299 has been approved or issued by the department for investigative
300 or institutional security purposes or for conducting other state
301 business.

302 (2) A person who violates any provision of this section as
303 it pertains to an article of contraband described in
304 subparagraph (1)(a)1., ~~or~~ subparagraph (1)(a)2., or subparagraph
305 (1)(a)6. commits ~~is guilty of~~ a felony of the third degree,
306 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
307 In all other cases, a violation of a provision of this section

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308 constitutes a felony of the second degree, punishable as
 309 provided in s. 775.082, s. 775.083, or s. 775.084.

310 Section 5. Paragraph (c) of subsection (3) of section
 311 948.01, Florida Statutes, is amended to read:

312 948.01 When court may place defendant on probation or into
 313 community control.--

314 (3) If, after considering the provisions of subsection (2)
 315 and the offender's prior record or the seriousness of the
 316 offense, it appears to the court in the case of a felony
 317 disposition that probation is an unsuitable dispositional
 318 alternative to imprisonment, the court may place the offender in
 319 a community control program as provided in s. 948.10. Or, in a
 320 case of prior disposition of a felony commitment, upon motion of
 321 the offender or the department or upon its own motion, the court
 322 may, within the period of its retained jurisdiction following
 323 commitment, suspend the further execution of the disposition and
 324 place the offender in a community control program upon such
 325 terms as the court may require. The court may consult with a
 326 local offender advisory council pursuant to s. 948.90 with
 327 respect to the placement of an offender into community control.
 328 Not later than 3 working days before the hearing on the motion,
 329 the department shall forward to the court all relevant material
 330 on the offender's progress while in custody. If this sentencing
 331 alternative to incarceration is utilized, the court shall:

332 ~~(c) Require the department to provide notifications~~
 333 ~~pursuant to s. 948.10(7).~~

334 Section 6. Section 948.10, Florida Statutes, is amended to
 335 read:

336 948.10 Community control programs.--

337 (1) The Department of Corrections shall develop and

338 administer a community control program. ~~Such community control~~

339 ~~program and required manuals shall be developed in consultation~~

340 ~~with the Florida Conference of Circuit Court Judges and the~~

341 ~~office of the State Courts Administrator.~~ This complementary

342 program shall be rigidly structured and designed to accommodate

343 offenders who, in the absence of such a program, would have been

344 incarcerated. The program shall focus on the provision of

345 sanctions and consequences which are commensurate with the

346 seriousness of the crime. The program shall offer the courts and

347 the Parole Commission an alternative, community-based method to

348 punish an offender in lieu of incarceration when the offender is

349 a member of one of the following target groups:

350 (a) Probation violators charged with technical violations

351 or misdemeanor violations.

352 (b) Parole violators charged with technical violations or

353 misdemeanor violations.

354 (c) Individuals found guilty of felonies, who, due to

355 their criminal backgrounds or the seriousness of the offenses,

356 would not be placed on regular probation.

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

358 ~~(a) Convicted of or adjudication withheld for a forcible~~

359 ~~felony as defined in s. 776.08, and~~

360 ~~(b) Previously convicted of or adjudication withheld for a~~

361 ~~forcible felony as defined in s. 776.08.~~

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363 ~~Nothing in this subsection prohibits placement of certain~~
364 ~~inmates on community control pursuant to s. 947.1747. For the~~
365 ~~purposes of this subsection, a forcible felony does not include~~
366 ~~manslaughter or burglary.~~

367 (2)~~(3)~~ The department shall commit not less than 10
368 percent of the parole and probation field staff and supporting
369 resources to the operation of the community control program.
370 Caseloads should be restricted to a maximum of 25 cases per
371 officer in order to ensure an adequate level of staffing.
372 Community control is an individualized program in which the
373 offender is restricted to noninstitutional quarters or
374 restricted to his or her own residence subject to an authorized
375 level of limited freedom.

376 ~~(4) The department shall develop and implement procedures~~
377 ~~to diagnose offenders during the prison intake process in order~~
378 ~~to recommend to the sentencing courts, during the period of~~
379 ~~retained jurisdiction, suitable candidates for placement in a~~
380 ~~program of community control.~~

381 ~~(5) The Department of Corrections shall develop, or shall~~
382 ~~contract for the development of, an implementation manual, a~~
383 ~~resource directory, and training programs for implementing~~
384 ~~community control programs.~~

385 ~~(a)1. The community control implementation manual shall~~
386 ~~include, but shall not be limited to, an explanation of the~~
387 ~~types of offenders who should be placed in community control~~
388 ~~programs, procedures for diagnosing offenders, objectives and~~
389 ~~goals of such placements, examples of alternative placements~~

390 ~~based upon the experience of other states, and instruction in~~
 391 ~~developing an individualized program for each offender.~~

392 ~~2. An offender's individualized program shall include~~
 393 ~~diagnosis of treatment needs in the areas of education,~~
 394 ~~substance abuse, and mental health, as well as community~~
 395 ~~sanction provisions, restitution and community service~~
 396 ~~provisions, rehabilitation objectives and programs, and a~~
 397 ~~schedule for periodic review and reevaluation of such~~
 398 ~~individualized programs. Individualized programs for offenders~~
 399 ~~who committed controlled substance violations shall include~~
 400 ~~provision for the conduct of random substance abuse testing~~
 401 ~~intermittently throughout the term of supervision, upon the~~
 402 ~~direction of the correctional probation officer as defined in s.~~
 403 ~~943.10(3).~~

404 ~~(b) The community control resource directory shall~~
 405 ~~include, but shall not be limited to, for each circuit in the~~
 406 ~~state, an identification and description of community resources~~
 407 ~~that are available for the implementation of community control~~
 408 ~~programs, which resources include the following:~~

409 ~~1. The name, address, phone, county location, capacity,~~
 410 ~~and cost.~~

411 ~~2. Client eligibility and characteristics which prohibit~~
 412 ~~acceptance.~~

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

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

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

416 ~~6. The services offered.~~

417 ~~(c) Training programs shall be provided for correctional~~
 418 ~~field staff, local offender advisory councils, and others~~
 419 ~~responsible for the implementation of community control~~
 420 ~~programs.~~

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

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

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

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

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

433 ~~(d) The victim of the offense, the victim's parent or~~
 434 ~~guardian if the victim is a minor, the lawful representative of~~
 435 ~~the victim or the victim's parent or guardian if the victim is a~~
 436 ~~minor, or the next of kin if the victim is a homicide victim.~~

437
 438 ~~Such notification shall include the name and street address of~~
 439 ~~the offender, the length of supervision, and the nature of the~~
 440 ~~offense. Update notification must be provided with respect to~~
 441 ~~violation of the terms or conditions of the placement.~~

442 ~~(8) If an offender is sentenced to community control by~~
 443 ~~the court and the offender is ineligible to be placed on~~

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444 ~~community control as provided in subsection (2), the department~~
445 ~~shall:~~

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

448 ~~(b) Within 30 days after receipt of the order, notify the~~
449 ~~sentencing judge, the state attorney, and the Attorney General~~
450 ~~that the offender was ineligible for placement on community~~
451 ~~control.~~

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

455 ~~(d) Provide an annual report to the Governor, the~~
456 ~~President of the Senate, the Speaker of the House of~~
457 ~~Representatives, and the Chief Justice of the Supreme Court on~~
458 ~~the placement of ineligible offenders on community control in~~
459 ~~order to assist in preparing judicial education programs or for~~
460 ~~any other purpose.~~

461 (3)~~(9)~~ Procedures governing violations of community
462 control shall be the same as those described in s. 948.06 with
463 respect to probation.

464 (4)~~(10)~~ Upon completion of the sanctions imposed in the
465 community control plan before the expiration of the term ordered
466 by the court, the department may petition the court to discharge
467 the offender from community control supervision or to return the
468 offender to a program of regular probation supervision. In
469 considering the petition, the court should recognize the limited
470 staff resources committed to the community control program, the

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471 purpose of the program, and the offender's successful compliance
472 with the conditions set forth in the order of the court.

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

474 ~~(a) Develop and maintain a weighted statewide caseload~~
475 ~~equalization strategy designed to ensure that high risk~~
476 ~~offenders receive the highest level of supervision; and~~

477 ~~(b) Develop and implement a supervision risk assessment~~
478 ~~instrument for the community control population which is similar~~
479 ~~to the probation risk assessment instrument established by the~~
480 ~~National Institute of Justice.~~

481 (5) ~~(12)~~ In its annual report to the Governor, the
482 President of the Senate, and the Speaker of the House of
483 Representatives under s. 20.315(5), the department shall include
484 a detailed analysis of the community control program and the
485 department's specific efforts to protect the public from
486 offenders placed on community control. The analysis must
487 include, but need not be limited to, specific information on the
488 department's ability to meet minimum officer-to-offender contact
489 standards, the number of crimes committed by offenders on
490 community control, and the level of community supervision
491 provided.

492 Section 7. Subsections (1) and (2) of section 958.04,
493 Florida Statutes, are amended to read:

494 958.04 Judicial disposition of youthful offenders.--

495 (1) The court may sentence as a youthful offender any
496 person:

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

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

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

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

513 (a) The court may place a youthful offender under
 514 supervision on probation or in a community control program, with
 515 or without an adjudication of guilt, under such conditions as
 516 the court may lawfully impose for a period of not more than 6
 517 years. Such period of supervision may ~~shall~~ not exceed the
 518 maximum sentence for the offense for which the youthful offender
 519 was found guilty.

520 (b) The court may impose a period of incarceration as a
 521 condition of probation or community control, which period of
 522 incarceration shall be served in ~~either~~ a county facility, a
 523 department probation and restitution center, or a community
 524 residential facility that ~~which~~ is owned and operated by any

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525 public or private entity providing such services. A ~~No~~ youthful
526 offender may not be required to serve a period of incarceration
527 in a community correctional center as defined in s. 944.026.
528 Admission to a department facility or center shall be contingent
529 upon the availability of bed space and shall take into account
530 the purpose and function of such facility or center. Placement
531 in such a facility or center may ~~shall~~ not exceed 364 days.

532 (c) The court may impose a split sentence whereby the
533 youthful offender is to be placed on probation or community
534 control upon completion of any specified period of
535 incarceration; however, if the incarceration period is to be
536 served in a department facility other than a probation and
537 restitution center or community residential facility, such
538 period shall be for not less than 1 year or more than 4 years.
539 The period of probation or community control shall commence
540 immediately upon the release of the youthful offender from
541 incarceration. The period of incarceration imposed or served and
542 the period of probation or community control, when added
543 together, may ~~shall~~ not exceed 6 years.

544 (d) The court may commit the youthful offender to the
545 custody of the department for a period of not more than 6 years,
546 provided that any such commitment may ~~shall~~ not exceed the
547 maximum sentence for the offense for which the youthful offender
548 has been convicted. Successful participation in the youthful
549 offender program by an offender who is sentenced as a youthful
550 offender by the court pursuant to this section, or is classified
551 as such by the department, may result in a recommendation to the
552 court, by the department, for a modification or early

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553 termination of probation, community control, or the sentence at
 554 any time prior to the scheduled expiration of such term. The
 555 department shall adopt rules defining criteria for successful
 556 participation in the youthful offender program which shall
 557 include program participation, academic and vocational training,
 558 and satisfactory adjustment. When a modification of the sentence
 559 results in the reduction of a term of incarceration, the court
 560 may impose a term of probation or community control which, when
 561 added to the term of incarceration, may ~~shall~~ not exceed the
 562 original sentence imposed.

563 Section 8. Subsections (2), (4), (5), and (6) of section
 564 958.11, Florida Statutes, are amended to read:

565 958.11 Designation of institutions and programs for
 566 youthful offenders; assignment from youthful offender
 567 institutions and programs.--

568 (2) Youthful offender institutions and programs shall
 569 contain only those youthful offenders sentenced as such by a
 570 court or classified as such by the department, pursuant to the
 571 requirements of subsections (4) and (6), except that under
 572 special circumstances select adult offenders may be assigned to
 573 youthful offender institutions. Female youthful offenders of all
 574 ages may continue to be housed together at those institutions
 575 designated by department rule ~~Florida Correctional Institution~~
 576 ~~and Broward Correctional Institution~~ until such time as
 577 institutions for a female youthful offenders are offender
 578 ~~institution is~~ established or adapted to allow for separation by
 579 age and to accommodate all custody classifications.

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580 (4) The department ~~Office of the Assistant Secretary for~~
581 ~~Youthful Offenders~~ shall continuously screen all institutions,
582 facilities, and programs for any inmate who meets the
583 eligibility requirements for youthful offender designation
584 specified in s. 958.04(1)(a) and (c) whose age does not exceed
585 24 years and whose total length of sentence does not exceed 10
586 years, and the department may classify and assign as a youthful
587 offender any inmate who meets the criteria of this subsection.

588 (5) The department ~~Population Movement and Control~~
589 ~~Coordinator~~ shall coordinate all youthful offender assignments
590 or transfers and shall ~~consult with the Office of the Assistant~~
591 ~~Secretary for Youthful Offenders. The Office of the Assistant~~
592 ~~Secretary for Youthful Offenders shall~~ review and maintain
593 access to full and complete documentation and substantiation of
594 all such assignments or transfers of youthful offenders to or
595 from facilities in the state correctional system which are not
596 designated for their care, custody, and control, except
597 assignments or transfers made pursuant to paragraph (3)(c).

598 (6) The department may assign to a youthful offender
599 facility any inmate, except a capital or life felon, whose age
600 does not exceed 19 years but who does not otherwise meet the
601 criteria of this section, if the department ~~Assistant Secretary~~
602 ~~for Youthful Offenders~~ determines that such inmate's mental or
603 physical vulnerability would substantially or materially
604 jeopardize his or her safety in a nonyouthful offender facility.
605 Assignments made under this subsection shall be included in the
606 department's annual report.

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607 Section 9. Section 958.12, Florida Statutes, is amended to
 608 read:

609 958.12 Participation in certain activities required.--

610 (1) A youthful offender shall be required to participate
 611 in work assignments, and in career, academic, counseling, and
 612 other rehabilitative programs in accordance with this section,
 613 including, but not limited to:

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

- 616 1. Reception and orientation.
- 617 2. Evaluation, needs assessment, and classification.
- 618 3. Educational programs.
- 619 4. Career and job training.
- 620 5. Life and socialization skills training, including
- 621 anger/aggression control.
- 622 6. Prerelease orientation and planning.
- 623 7. Appropriate transition services.

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

- 626 1. Religious services and counseling.
- 627 2. Social services.
- 628 3. Substance abuse treatment and counseling.
- 629 4. Psychological and psychiatric services.
- 630 5. Library services.
- 631 6. Medical and dental health care.
- 632 7. Athletic, recreational, and leisure time activities.
- 633 8. Mail and visiting privileges.

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635 Income derived by a youthful offender from participation in such
636 activities may be used, in part, to defray a portion of the
637 costs of his or her incarceration or supervision; to satisfy
638 preexisting obligations; to pay fines, counseling fees, or other
639 costs lawfully imposed; or to pay restitution to the victim of
640 the crime for which the youthful offender has been convicted in
641 an amount determined by the sentencing court. Any such income
642 not used for such reasons or not used as provided in s. 946.513
643 or s. 958.09 shall be placed in a bank account for use by the
644 youthful offender upon his or her release.

645 (2) A comprehensive transition and postrelease plan shall
646 be developed for the youthful offender by a team consisting of a
647 transition assistance officer, a classification officer, an
648 educational representative, a health services administrator, a
649 probation and parole officer, and the youthful offender.

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

654 (3)~~(4)~~ Community partnerships shall be developed by the
655 department to provide postrelease community resources. The
656 department shall develop partnerships with entities that ~~which~~
657 include, but are not limited to, state agencies ~~the Department~~
658 ~~of Labor and Employment Security, the Department of Children and~~
659 ~~Family Services~~, community health agencies, private agencies,
660 and school systems.

661 (4)~~(5)~~ If supervision of the youthful offender after
662 release from incarceration is required, this ~~and~~ may be

663 accomplished in a residential or nonresidential program or
 664 intensive day treatment~~,~~ or through supervision by a
 665 correctional probation and parole officer.

666 Section 10. Paragraph (b) of subsection (1) of section
 667 120.57, Florida Statutes, is amended to read:

668 120.57 Additional procedures for particular cases.--

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

671 (b) All parties shall have an opportunity to respond, to
 672 present evidence and argument on all issues involved, to conduct
 673 cross-examination and submit rebuttal evidence, to submit
 674 proposed findings of facts and orders, to file exceptions to the
 675 presiding officer's recommended order, and to be represented by
 676 counsel or other qualified representative. In proceedings for
 677 the continued placement of inmates under s. 945.45, the
 678 administrative law judge may appoint a private pro bono attorney
 679 in the circuit in which the treatment facility is located to
 680 represent the inmate. When appropriate, the general public may
 681 be given an opportunity to present oral or written
 682 communications. If the agency proposes to consider such
 683 material, then all parties shall be given an opportunity to
 684 cross-examine or challenge or rebut the material.

685 Section 11. Subsections (1) and (5) of section 945.41,
 686 Florida Statutes, are amended to read:

687 945.41 Legislative intent of ss. 945.40-945.49.--It is the
 688 intent of the Legislature that mentally ill inmates in the
 689 custody of the Department of Corrections receive evaluation and
 690 appropriate treatment for their mental illness through a

691 continuum of services. It is further the intent of the
 692 Legislature that:

693 (1) Inmates in the custody of the department who have
 694 mental illnesses that require hospitalization and intensive
 695 psychiatric inpatient treatment or care receive appropriate
 696 treatment or care in Department of Corrections mental health
 697 treatment facilities designated for that purpose. ~~The department~~
 698 ~~shall contract with the Department of Children and Family~~
 699 ~~Services for the provision of mental health services in any~~
 700 ~~departmental mental health treatment facility.~~ The Department of
 701 Corrections shall provide mental health services to inmates
 702 committed to it and may contract with any entities, persons, or
 703 agencies qualified to provide such services.

704 (5) The department may designate a mental health treatment
 705 facility for adult, ~~and~~ youthful, and female offenders or may
 706 contract with other appropriate entities, persons, or agencies
 707 for such services.

708 Section 12. Section 945.42, Florida Statutes, is amended
 709 to read:

710 945.42 Definitions; ss. 945.40-945.49.--As used in ss.
 711 945.40-945.49, the following terms shall have the meanings
 712 ascribed to them, unless the context shall clearly indicate
 713 otherwise:

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

715 (2) "Crisis stabilization care" means a level of care that
 716 is less restrictive and intense than care provided in a mental
 717 health treatment facility, that includes a broad range of
 718 evaluation and treatment services provided within a highly

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719 structured setting or locked residential setting, and that is
720 intended for inmates who are experiencing acute emotional
721 distress and who cannot be adequately evaluated and treated in a
722 transitional care unit or infirmary isolation management room.
723 Such treatment is also more intense than treatment provided in a
724 transitional care unit and is devoted principally toward rapid
725 stabilization of acute symptoms and conditions.

726 (3)-(2) "Department" means the Department of Corrections.

727 (4)-(3) "Director" means the Director for Mental Health
728 Services of the Department of Corrections or his or her
729 designee.

730 (5)-(4) "In immediate need of care and treatment" means
731 that an inmate is apparently mentally ill and is not able to be
732 appropriately cared for in the institution where he or she ~~the~~
733 ~~inmate~~ is confined and that, but for being isolated in a more
734 restrictive and secure housing environment, because of the
735 apparent mental illness:

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

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

746 (b)1. The inmate has refused voluntary placement for

747 treatment at a mental health treatment facility after sufficient
 748 and conscientious explanation and disclosure of the purpose of
 749 placement; or

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

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

755 (6)-(5) "In need of care and treatment" means that an
 756 inmate has a mental illness for which inpatient services in a
 757 mental health treatment facility are necessary and that, but for
 758 being isolated in a more restrictive and secure housing
 759 environment, because of the ~~which~~ mental illness;

760 (a)1. The inmate is demonstrating a refusal to care for
 761 himself or herself and without treatment is likely to continue
 762 to refuse to care for himself or herself, and such refusal poses
 763 a real and present threat of substantial harm to his or her the
 764 inmate's well-being; or to the safety of others.

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

769 (b)1. The inmate has refused voluntary placement for
 770 treatment at a mental health treatment facility after sufficient
 771 and conscientious explanation and disclosure of the purpose of
 772 placement; or

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

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

778 (7)-(6) "Inmate" means any person committed to the custody
779 of the Department of Corrections.

780 (8)-(7) "Mental health treatment facility" means ~~the~~
781 ~~Corrections Mental Health Institution and any~~ extended treatment
782 or hospitalization-level unit within the corrections system
783 which ~~other institution that~~ the Assistant Secretary for Health
784 Services of the department specifically designates by rule to
785 provide acute psychiatric care and which may include involuntary
786 treatment and therapeutic intervention ~~at the hospital level,~~ in
787 contrast to less intensive levels of care such as outpatient
788 mental health care, transitional mental health care, or crisis
789 stabilization care.

790 (9)-(8) "Mentally ill" means an impairment of the mental or
791 emotional processes, of the ability to exercise conscious
792 control of one's actions, or of the ability to perceive or
793 understand reality ~~or to understand~~, which impairment
794 substantially interferes with a person's ability to meet the
795 ordinary demands of living, regardless of etiology, except that,
796 for the purposes of transfer of an inmate to a mental health
797 treatment facility, the term does not include retardation or
798 developmental disability as defined in chapter 393, simple
799 intoxication, or conditions manifested only by antisocial
800 behavior or substance abuse ~~drug~~ addiction. However, an
801 individual who is mentally retarded or developmentally disabled
802 may also have a mental illness.

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803 ~~(10)~~(9) "Psychiatrist" means a medical practitioner
 804 licensed pursuant to chapter 458 or chapter 459 who has
 805 primarily diagnosed and treated nervous and mental disorders for
 806 a period of not less than 3 years inclusive of psychiatric
 807 residency.

808 ~~(11)~~(10) "Psychological professional" "~~Psychologist~~" means
 809 a behavioral practitioner who has an approved doctoral degree in
 810 psychology as defined in s. 490.003(3)(b) and is employed by the
 811 department that is primarily clinical in nature from a
 812 university or professional graduate school that is state-
 813 authorized or accredited by an accrediting agency approved by
 814 the United States Department of Education and who is
 815 professionally certified by the appropriate professional
 816 psychology association or who is licensed as a psychologist
 817 pursuant to chapter 490.

818 ~~(12)~~(11) "Secretary" means the Secretary of Corrections.

819 ~~(13)~~(12) "Transitional mental health care" means a level
 820 of care that is more intensive than outpatient care, but less
 821 intensive than crisis stabilization care, and is characterized
 822 by the provision of traditional mental health treatments such as
 823 group and individual therapy, activity therapy, recreational
 824 therapy, and psychotropic medications ~~chemotherapy~~, in the
 825 context of a structured residential setting. Transitional mental
 826 health care is indicated for a person with chronic or residual
 827 symptomatology who does not require crisis stabilization care or
 828 acute psychiatric care ~~at the hospital level~~, but whose
 829 impairment ~~impairments~~ in functioning nevertheless renders
 830 ~~render~~ him or her incapable of adjusting satisfactorily within

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831 the general inmate population, ~~even with the assistance of~~
832 ~~outpatient care.~~

833 (14) ~~(13)~~ "Warden" means the warden of a state corrections
834 facility or his or her designee.

835 Section 13. Section 945.43, Florida Statutes, is amended
836 to read:

837 945.43 Admission of inmate to mental health treatment
838 facility.--

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

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

844 (a) An inmate may be admitted to a mental health treatment
845 facility after notice and hearing, upon the recommendation of
846 the warden of the facility where the inmate is confined ~~and of~~
847 ~~the director.~~ The recommendation shall be entered on a petition
848 ~~certificate~~ and must be supported by the expert opinion of a
849 psychiatrist and the second opinion of a psychiatrist or
850 psychological professional ~~psychologist.~~ The petition
851 ~~certificate~~ shall be filed with the court in the county where
852 the inmate is located ~~and shall serve as a petition for a~~
853 ~~hearing regarding placement.~~

854 (b) A copy of the petition ~~certificate shall also be filed~~
855 ~~with the department, and copies shall be served on the inmate~~
856 ~~and the inmate's representatives, accompanied by-~~

857 1. ~~A written notice, in plain and simple language, that~~
858 ~~the inmate or the inmate's representative may apply at any time~~

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859 ~~for a hearing on the issue of the inmate's need for treatment if~~
860 ~~he or she has previously waived such a hearing.~~

861 ~~2. A petition for such hearing, which requires only the~~
862 ~~signature of the inmate or the inmate's representative for~~
863 ~~completion.~~

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

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

871 (c) The petition for placement may be filed in the county
872 in which the inmate is located ~~being treated at any time within~~
873 ~~6 months of the date of the certificate.~~ The hearing shall be
874 held in the same county, and one of the inmate's physicians at
875 the facility where the inmate is located shall appear as a
876 witness at the hearing.

877 (d) An attorney representing the inmate shall have access
878 to the inmate and any records, including medical or mental
879 health records, which are relevant to the representation of the
880 inmate.

881 (e) If the court finds that the inmate is mentally ill and
882 in need of care and treatment, as defined in s. 945.42, the
883 court ~~it~~ shall order that he or she be placed in ~~admitted to~~ a
884 mental health treatment facility or, if the inmate is at a
885 mental health treatment facility, that he or she be retained
886 there. ~~However, the inmate may be immediately transferred to and~~

887 ~~admitted at a mental health treatment facility by executing a~~
 888 ~~waiver of the hearing by express and informed consent, without~~
 889 ~~awaiting the court order.~~ The court shall authorize the mental
 890 health treatment facility to retain the inmate for up to 6
 891 months. If, at the end of that time, continued placement
 892 ~~treatment~~ is necessary, the warden shall apply to the Division
 893 of Administrative Hearings in accordance with s. 945.45 ~~court~~
 894 for an order authorizing continued placement.

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

900 (a) The court shall serve notice on the warden of the
 901 facility where the inmate is confined, ~~the director,~~ and the
 902 allegedly mentally ill inmate. The notice must ~~shall~~ specify the
 903 date, time, and place of the hearing; the basis for the
 904 allegation of mental illness; and the names of the examining
 905 experts. The hearing shall be held within 5 days, and the court
 906 may appoint a general or special magistrate to preside. The
 907 court may waive the presence of the inmate at the hearing if
 908 such waiver is consistent with the best interests of the inmate
 909 and the inmate's counsel does not object. The hearing may be as
 910 informal as is consistent with orderly procedure. One of the
 911 experts whose opinion supported the petition for placement
 912 ~~recommendation~~ shall be present at the hearing for information
 913 purposes.

914 (b) If, at the hearing, the court finds that the inmate is

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915 | mentally ill and in need of care and treatment, as defined in s.
 916 | 945.42, the court ~~it~~ shall order that he or she be placed in
 917 | ~~transferred to~~ a mental health treatment facility ~~and provided~~
 918 | ~~appropriate treatment~~. The court shall provide a copy of its
 919 | order authorizing placement ~~transfer~~ and all supporting
 920 | documentation relating to the inmate's condition to the warden
 921 | of the treatment facility. If the court finds that the inmate is
 922 | not mentally ill, it shall dismiss the petition for placement
 923 | ~~transfer~~.

924 | (4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL
 925 | ~~ALLOWED~~.--The warden of an institution in which a mental health
 926 | treatment facility is located may refuse to place ~~admit~~ any
 927 | inmate in that treatment facility who is not accompanied by
 928 | adequate court orders and documentation, as required in ss.
 929 | 945.40-945.49.

930 | Section 14. Section 945.44, Florida Statutes, is amended
 931 | to read:

932 | 945.44 Emergency placement ~~admission~~ of inmate in a ~~to~~
 933 | mental health treatment facility.--

934 | (1) CRITERIA.--An inmate may be placed in a mental health
 935 | treatment facility on an emergency basis if he or she is
 936 | mentally ill and in immediate need of care and treatment, as
 937 | defined in s. 945.42.

938 | (2) PROCEDURE FOR EMERGENCY PLACEMENT ADMISSION.--An
 939 | inmate who is mentally ill and in immediate need of care and
 940 | treatment that ~~which~~ cannot be provided at the institution where
 941 | he or she is confined may be placed in ~~admitted to~~ a mental
 942 | health treatment facility on an emergency basis. The inmate may

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943 | be placed ~~transferred~~ immediately in a mental health treatment
 944 | ~~to the~~ facility and shall be accompanied by the recommendation
 945 | of the warden of the institution where the inmate is confined,
 946 | which recommendation must ~~shall~~ state the need for the emergency
 947 | placement transfer and ~~shall~~ include a written opinion of a
 948 | physician verifying the need for the emergency placement
 949 | ~~transfer~~. Upon the emergency placement ~~the admission~~ of the
 950 | inmate in ~~to~~ the facility, the inmate shall be evaluated; if he
 951 | or she is determined to be in need of treatment or care, the
 952 | warden shall initiate proceedings for placement of the inmate,
 953 | as described in s. 945.43(2).

954 | Section 15. Section 945.45, Florida Statutes, is amended
 955 | to read:

956 | 945.45 ~~Procedure for~~ Continued placement of inmates in
 957 | mental health treatment facilities.--

958 | (1) CRITERIA.--An inmate may be retained in a mental
 959 | health treatment facility if he or she is mentally ill and
 960 | continues to be in need of care and treatment, as defined in s.
 961 | 945.42.

962 | (2)-(1) PROCEDURE.--

963 | (a) If continued placement of an inmate is necessary, The
 964 | warden shall, prior to the expiration of the period during which
 965 | the treatment facility is authorized to retain the inmate, file
 966 | a petition with the Division of Administrative Hearings for
 967 | ~~request~~ an order authorizing continued placement. The petition
 968 | must ~~This request shall~~ be accompanied by a statement from the
 969 | inmate's physician justifying the petition request and providing
 970 | a brief summary of the inmate's treatment during the time he or

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971 she has been placed. In addition, the warden shall submit an
 972 individualized plan for the inmate for whom he or she is
 973 requesting continued placement. The inmate may remain in a
 974 mental health treatment facility pending a hearing after the
 975 timely filing of the petition.

976 (b) Notification of this request for retention shall be
 977 mailed to the inmate, ~~and the inmate's representative~~ along with
 978 a waiver-of-hearing form and the completed petition, requesting
 979 the inmate's only a signature and a waiver of hearing form. The
 980 waiver-of-hearing form shall require express and informed
 981 consent and shall state that the inmate is entitled to an
 982 administrative ~~a~~ hearing under the law; that the inmate is
 983 entitled to be represented by an attorney at the hearing and
 984 that, if the inmate cannot afford an attorney, one will be
 985 appointed; and that, if it is shown at the hearing that the
 986 inmate does not meet the criteria for continued placement, he or
 987 she will be transferred out of the mental health treatment
 988 facility to another facility of the department. If the inmate ~~or~~
 989 ~~the inmate's representative~~ does not sign the petition, or if
 990 the inmate does not sign a waiver within 15 days, the
 991 administrative law judge shall notice a hearing with regard to
 992 the inmate involved in accordance with ss. 120.569 and
 993 120.57(1).

994 (3) PROCEDURE FOR HEARING.--

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

999 administrative law judge is final and subject to judicial review
 1000 in accordance with s. 120.68. An administrative law judge shall
 1001 be assigned by the Division of Administrative Hearings to
 1002 conduct hearings for continued placement.

1003 (b) The administrative law judge may appoint a private pro
 1004 bono attorney in the circuit in which the treatment facility is
 1005 located to represent the inmate.

1006 (c) The administrative law judge may waive the presence of
 1007 the inmate at the hearing if such waiver is consistent with the
 1008 best interests of the inmate and the inmate's counsel does not
 1009 object.

1010 (d) ~~(2)~~ If, at a hearing pursuant to ss. 945.40-945.49, the
 1011 administrative law judge finds that the inmate no longer meets
 1012 the criteria for placement ~~treatment~~, he or she shall order that
 1013 the inmate be transferred out of the mental health treatment
 1014 ~~facility to another facility of the department.~~

1015 (e) ~~(3)~~ If the inmate waives the hearing or if the
 1016 administrative law judge finds that the inmate is in need of
 1017 continued placement ~~treatment~~, the administrative law judge
 1018 shall enter an order authorizing such continued placement
 1019 ~~treatment~~ for a period not to exceed 1 year. The same procedure
 1020 shall be repeated prior to the expiration of each additional 1-
 1021 year period that the inmate is retained in the mental health
 1022 treatment facility.

1023 ~~(4) Hearings on requests for orders authorizing continued~~
 1024 ~~placement filed in accordance with this section shall be~~
 1025 ~~conducted in accordance with the provisions of ss. 120.569 and~~
 1026 ~~120.57(1), except that any order entered by the administrative~~

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1027 ~~law judge shall be final and subject to judicial review in~~
 1028 ~~accordance with s. 120.68.~~

1029 Section 16. Section 945.46, Florida Statutes, is amended
 1030 to read:

1031 945.46 Initiation of involuntary placement proceedings
 1032 with respect to a mentally ill inmate scheduled for release.--

1033 (1) If an inmate who is receiving mental health treatment
 1034 in the department is scheduled for release through expiration of
 1035 sentence or any other means, but continues to be mentally ill
 1036 and in need of care and treatment, as defined in s. 945.42, the
 1037 warden is authorized to initiate procedures for involuntary
 1038 placement pursuant to ~~the provisions of s. 394.467~~, 60 days
 1039 prior to such release.

1040 (2) In addition, the warden may initiate procedures for
 1041 involuntary examination pursuant to s. 394.463 for any inmate
 1042 who has a mental illness and meets the criteria of s.
 1043 394.463(1).

1044 Section 17. Section 945.47, Florida Statutes, is amended
 1045 to read:

1046 945.47 Discharge of inmate from mental health treatment.--

1047 (1) An inmate who has been transferred for the purpose of
 1048 mental health treatment shall be discharged from treatment by
 1049 the warden under the following conditions:

1050 (a) If the inmate is no longer in need of care and
 1051 treatment, as defined in s. 945.42, he or she may be transferred
 1052 out of the mental health treatment facility and provided with
 1053 appropriate mental health services ~~to another institution in the~~
 1054 ~~department; or~~

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1055 ~~(b) If the inmate continues to be mentally ill, but is not~~
 1056 ~~in need of care and treatment as an inpatient, he or she may be~~
 1057 ~~transferred to another institution in the department and~~
 1058 ~~provided appropriate outpatient and aftercare services;~~

1059 (b)(e) If the inmate's sentence expires during his or her
 1060 treatment, but he or she is no longer in need of care and
 1061 treatment as an inpatient, the inmate may be released with a
 1062 recommendation for outpatient treatment, pursuant to the
 1063 provisions of ss. 945.40-945.49. ~~or~~

1064 ~~(d) If the inmate's sentence expires and he or she~~
 1065 ~~continues to be mentally ill and in need of care and treatment,~~
 1066 ~~the warden shall initiate proceedings for involuntary placement,~~
 1067 ~~pursuant to s. 394.467.~~

1068 ~~(2) An inmate who is involuntarily placed pursuant to s.~~
 1069 ~~394.467 at the expiration of his or her sentence may be placed,~~
 1070 ~~by order of the court, in a facility designated by the~~
 1071 ~~Department of Children and Family Services as a secure,~~
 1072 ~~nonforensic, civil facility. Such a placement shall be~~
 1073 ~~conditioned upon a finding by the court of clear and convincing~~
 1074 ~~evidence that the inmate is manifestly dangerous to himself or~~
 1075 ~~herself or others. The need for such placement shall be reviewed~~
 1076 ~~by facility staff every 90 days. At any time that a patient is~~
 1077 ~~considered for transfer to a nonsecure, civil unit, the court~~
 1078 ~~which entered the order for involuntary placement shall be~~
 1079 ~~notified.~~

1080 (2)(3) At any time that an inmate who has received mental
 1081 health treatment while in the custody of the department becomes
 1082 eligible for release under supervision or upon end of sentence

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1083 ~~en parole, a complete~~ record of the inmate's mental health
 1084 treatment ~~may shall~~ be provided to the Parole Commission and to
 1085 the Department of Children and Family Services upon request. The
 1086 record shall include, at a minimum ~~least~~, a summary of the
 1087 inmate's diagnosis, length of stay in treatment, clinical
 1088 history, prognosis, prescribed medication, ~~and~~ treatment plan,
 1089 and recommendations for aftercare services. ~~In the event that~~
 1090 ~~the inmate is released on parole, the record shall be provided~~
 1091 ~~to the parole officer who shall assist the inmate in applying~~
 1092 ~~for services from a professional or an agency in the community.~~
 1093 ~~The application for treatment and continuation of treatment by~~
 1094 ~~the inmate may be made a condition of parole, as provided in s.~~
 1095 ~~947.19(1); and a failure to participate in prescribed treatment~~
 1096 ~~may be a basis for initiation of parole violation hearings.~~

1097 Section 18. Section 945.48, Florida Statutes, is amended
 1098 to read:

1099 945.48 Rights of inmates ~~inmate~~ provided mental health
 1100 treatment; procedure for involuntary treatment.--

1101 (1) RIGHT TO QUALITY TREATMENT.--An inmate in a mental
 1102 health treatment facility has the right to receive treatment
 1103 that ~~which~~ is suited to his or her needs and that ~~which~~ is
 1104 provided in a humane psychological environment. Such treatment
 1105 shall be administered skillfully, safely, and humanely with
 1106 respect for the inmate's dignity and personal integrity.

1107 (2) RIGHT TO EXPRESS AND INFORMED CONSENT.--Any inmate
 1108 provided psychiatric treatment within the department shall be
 1109 asked to give his or her express and informed written consent
 1110 for such treatment. "Express and informed written consent" or

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1111 "consent" means consent voluntarily given in writing after a
 1112 conscientious and sufficient explanation and disclosure of the
 1113 purpose of the proposed treatment; the common side effects of
 1114 the treatment, if any; the expected duration of the treatment;
 1115 and the alternative treatment available. The explanation shall
 1116 enable the inmate to make a knowing and willful decision without
 1117 any element of fraud, deceit, or duress or any other form of
 1118 constraint or coercion.

1119 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF

1120 INMATES.--Involuntary mental health treatment of an inmate who
 1121 refuses treatment that is deemed to be necessary for the
 1122 appropriate care of the inmate and the safety of the inmate or
 1123 others may be provided at a mental health treatment facility. ~~an~~
 1124 ~~institution authorized to do so by the Assistant Secretary for~~
 1125 ~~Health Services under the following circumstances:~~

1126 ~~(a) In an emergency situation in which there is immediate~~
 1127 ~~danger to the health and safety of the inmate or other inmates,~~
 1128 ~~such treatment may be provided upon the written order of a~~
 1129 ~~physician for a period not to exceed 48 hours, excluding~~
 1130 ~~weekends and legal holidays. If, after the 48 hour period, the~~
 1131 ~~inmate has not given express and informed consent to the~~
 1132 ~~treatment initially refused, the warden shall, within 48 hours,~~
 1133 ~~excluding weekends and legal holidays, petition the circuit~~
 1134 ~~court serving the county in which the facility is located for an~~
 1135 ~~order authorizing the continued treatment of the inmate. In the~~
 1136 ~~interim, treatment may be continued upon the written order of a~~
 1137 ~~physician who has determined that the emergency situation~~
 1138 ~~continues to present a danger to the safety of the inmate or~~

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1139 ~~others. If an inmate must be isolated for mental health~~
1140 ~~purposes, that decision must be reviewed within 72 hours by~~
1141 ~~medical staff different from that making the original placement.~~

1142 ~~(b) In a situation other than an emergency situation, The~~
1143 ~~warden of the institution containing the mental health treatment~~
1144 ~~facility shall petition the circuit court serving the county in~~
1145 ~~which the mental health treatment facility is located for an~~
1146 ~~order authorizing the treatment of the inmate. The inmate shall~~
1147 ~~be provided with a copy of the petition along with the proposed~~
1148 ~~treatment, the basis for the proposed treatment, the names of~~
1149 ~~the examining experts, and the date, time, and location of the~~
1150 ~~hearing. The inmate may have an attorney represent him or her at~~
1151 ~~the hearing and, if the inmate is indigent, the court shall~~
1152 ~~appoint the office of the public defender or private counsel~~
1153 ~~pursuant to s. 27.40(1) to represent the inmate at the hearing.~~
1154 ~~An attorney representing the inmate shall have access to the~~
1155 ~~inmate and any records, including medical or mental health~~
1156 ~~records, which are relevant to the representation of the inmate.~~
1157 ~~The order shall allow such treatment for a period not to exceed~~
1158 ~~90 days from the date of the order. Unless the court is notified~~
1159 ~~in writing that the inmate has provided express and informed~~
1160 ~~consent in writing, that the inmate has been transferred to~~
1161 ~~another institution of the department, or that the inmate is no~~
1162 ~~longer in need of treatment, the warden shall, prior to the~~
1163 ~~expiration of the initial 90 day order, petition the court for~~
1164 ~~an order authorizing the continuation of treatment for another~~
1165 ~~90 day period. This procedure shall be repeated until the inmate~~
1166 ~~provides consent or is no longer in need of treatment. Treatment~~

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1167 ~~may be continued pending a hearing after the filing of any~~
 1168 ~~petition.~~

1169 (4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF
 1170 AN INMATE.--

1171 (a) The hearing on the petition for involuntary treatment
 1172 shall be held within 5 days after the petition is filed and the
 1173 court may appoint a general or special magistrate to preside.
 1174 The inmate may testify or not, as he or she chooses, may cross-
 1175 examine witnesses testifying on behalf of the facility, and may
 1176 present his or her own witnesses. However, the court may waive
 1177 the presence of the inmate at the hearing if such waiver is
 1178 consistent with the best interests of the inmate and the
 1179 inmate's counsel does not object. One of the inmate's physicians
 1180 whose opinion supported the petition shall appear as a witness
 1181 at the hearing.

1182 (b)(e) At the hearing on the issue of whether the court
 1183 should authorize treatment for which an inmate has refused to
 1184 give express and informed consent, the court shall determine by
 1185 clear and convincing evidence whether the inmate is mentally ill
 1186 as defined in this chapter; whether such treatment is essential
 1187 to the care of the inmate; and whether the treatment is
 1188 experimental or presents an unreasonable risk of serious,
 1189 hazardous, or irreversible side effects. In arriving at the
 1190 substitute judgment decision, the court must consider at least
 1191 the following:

- 1192 1. The inmate's expressed preference regarding treatment;
- 1193 2. The probability of adverse side effects;
- 1194 3. The prognosis for the inmate without treatment; and

1195 4. The prognosis for the inmate with treatment.

1196
 1197 ~~The inmate and the inmate's representative shall be provided~~
 1198 ~~with a copy of the petition and the date, time, and location of~~
 1199 ~~the hearing. The inmate may have an attorney represent him or~~
 1200 ~~her at the hearing, and, if the inmate is indigent, the court~~
 1201 ~~shall appoint the office of the public defender to represent him~~
 1202 ~~or her at the hearing. The inmate may testify or not, as he or~~
 1203 ~~she chooses, may cross examine witnesses testifying on behalf of~~
 1204 ~~the facility, and may present his or her own witnesses.~~

1205 (c) An order authorizing involuntary treatment shall allow
 1206 such treatment for a period not to exceed 90 days following the
 1207 date of the order. Unless the court is notified in writing that
 1208 the inmate has provided express and informed consent in writing,
 1209 that the inmate has been transferred to another institution of
 1210 the department, or that the inmate is no longer in need of
 1211 treatment, the warden shall, prior to the expiration of the
 1212 initial 90-day order, petition the court for an order
 1213 authorizing the continuation of treatment for another 90-day
 1214 period. This procedure shall be repeated until the inmate
 1215 provides express and informed consent or is no longer in need of
 1216 treatment. Treatment may be continued pending a hearing after
 1217 the timely filing of any petition.

1218 (5) PROCEDURE FOR EMERGENCY TREATMENT.--In an emergency
 1219 situation in which there is immediate danger to the health and
 1220 safety of an inmate or other inmates, emergency treatment may be
 1221 provided at a mental health treatment facility upon the written
 1222 order of a physician for a period not to exceed 48 hours,

1223 excluding weekends and legal holidays. If, after the 48-hour
 1224 period, the inmate has not given express and informed consent to
 1225 the treatment initially refused, the warden shall, within 48
 1226 hours, excluding weekends and legal holidays, petition the
 1227 circuit court, in accordance with the procedures described in
 1228 this section, for an order authorizing the continued treatment
 1229 of the inmate. In the interim, treatment may be continued upon
 1230 the written order of a physician who has determined that the
 1231 emergency situation continues to present a danger to the safety
 1232 of the inmate or others. If an inmate must be isolated for
 1233 mental health purposes, that decision must be reviewed within 72
 1234 hours by a different psychological professional or a physician
 1235 other than the one making the original placement.

1236 (6) ~~(d)~~ EMERGENCY TREATMENT.--In addition to the other
 1237 above provisions of this section for mental health treatment,
 1238 when the consent ~~permission~~ of the inmate cannot be obtained,
 1239 the warden of a mental health treatment facility, or his or her
 1240 designated representative, with the concurrence of the inmate's
 1241 attending physician, may authorize emergency surgical or
 1242 nonpsychiatric medical treatment if such treatment is deemed
 1243 lifesaving or there is a situation threatening serious bodily
 1244 harm to the inmate.

1245 ~~(3) STATUS OF INMATE. An inmate receiving mental health~~
 1246 ~~treatment shall be subject to the same standards applied to~~
 1247 ~~other inmates in the department, including, but not limited to,~~
 1248 ~~consideration for parole, release by reason of gain time~~
 1249 ~~allowances as provided for in s. 944.291, and release by~~
 1250 ~~expiration of sentence.~~

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1251 Section 19. Section 945.49, Florida Statutes, is amended
 1252 to read:

1253 945.49 Operation and administration.--

1254 (1) ADMINISTRATION.--The department is authorized to
 1255 contract with the appropriate entities, agencies, persons, and
 1256 local governing bodies to provide mental health services
 1257 pursuant to ss. 945.40-945.49.

1258 (2) RULES.--The department, in cooperation with the Mental
 1259 Health Program Office of the Department of Children and Family
 1260 Services, shall adopt rules necessary for administration of ss.
 1261 945.40-945.49 in accordance with chapter 120.

1262 (3) ORIENTATION AND TRAINING.--Correctional officers
 1263 employed by a mental health treatment facility shall receive
 1264 specialized training above and beyond that required for basic
 1265 certification pursuant to chapter 943. ~~Such training shall be in
 1266 accordance with requirements of the Criminal Justice Standards
 1267 and Training Commission.~~

1268 (4) STATUS OF INMATE.--An inmate receiving mental health
 1269 treatment shall be subject to the same standards applied to
 1270 other inmates in the department, including, but not limited to,
 1271 consideration for parole, release by reason of gain-time
 1272 allowances as provided for in s. 944.291, and release by
 1273 expiration of sentence. ~~ADMINISTRATIVE LAW JUDGES. One or more
 1274 administrative law judges shall be assigned by the Division of
 1275 Administrative Hearings to conduct hearings for continued
 1276 placement.~~

1277 Section 20. This act shall take effect October 1, 2008.