

By Senator Garcia

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1                   A bill to be entitled  
2           An act relating to mental health; revising part I of  
3           ch. 394, F.S., relating to the Florida Mental Health  
4           Act, to substitute the term "individual" for the terms  
5           "person," "patient," or "client"; amending s. 394.453,  
6           F.S.; conforming terms; amending s. 394.455, F.S.;  
7           redefining terms, defining new terms, and deleting  
8           terms; amending s. 394.457, F.S.; conforming terms;  
9           amending s. 394.4572, F.S.; conforming terms; deleting  
10          certain background screening requirements and  
11          exemptions for certain mental health professionals;  
12          amending s. 394.4573, F.S.; conforming terms; deleting  
13          a report requirement relating to the implementation of  
14          staffing standards in state treatment facilities;  
15          amending ss. 394.4574 and 394.458, F.S.; conforming  
16          terms; amending s. 394.459, F.S.; conforming terms;  
17          requiring physical examinations and psychiatric  
18          evaluations to be documented in the clinical record;  
19          requiring facilities to provide procedures for  
20          reporting events that place individuals receiving  
21          services at risk of harm; requiring facilities to  
22          provide information and assist individuals with  
23          advance directives; amending ss. 394.4593 and  
24          394.4595, F.S.; conforming terms; amending s.  
25          394.4597, F.S.; conforming terms; specifying the  
26          rights, authority, and responsibilities of a  
27          representative; amending s. 394.4598, F.S.; conforming  
28          terms; requiring a guardian advocate to make every  
29          effort to make the decision the individual would have

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30 made; amending s. 394.4599, F.S.; conforming terms;  
31 repealing s. 394.460, F.S., relating to the rights of  
32 professionals; amending s. 394.461, F.S.; conforming  
33 terms; specifying that only governmental facilities  
34 may serve as receiving and treatment facilities;  
35 creating s. 394.4611, F.S.; providing for integrated  
36 adult mental health crisis stabilization unit and  
37 addictions receiving facility services; authorizing  
38 licensure by the Agency for Health Care  
39 Administration; specifying who may receive services;  
40 requiring the Department of Children and Family  
41 Services to adopt rules; amending s. 394.4615, F.S.;  
42 conforming terms; amending s. 394.462, F.S.;  
43 conforming terms; providing that a law enforcement  
44 officer acting in good faith may not be held liable  
45 for false imprisonment; amending s. 394.4625, F.S.;  
46 conforming terms; requiring a minor's assent to  
47 voluntary admission; requiring an individual who has  
48 been voluntarily admitted and charged with a crime to  
49 be returned to the custody of a law enforcement agency  
50 after discharge; amending s. 394.463, F.S.; conforming  
51 terms; requiring an ex parte order for involuntary  
52 examination to be based on specific facts and have  
53 occurred within the last 14 days; specifying  
54 requirements for certificates for involuntary  
55 examination executed by examining professionals;  
56 providing notification requirements to guardians of  
57 minors who are involuntarily examined; revising the  
58 procedures for holding a person for involuntary

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59 examination and for emergency situations; amending s.  
60 394.4655, F.S.; conforming terms; amending s. 394.467,  
61 F.S.; conforming terms; requiring a facility to send a  
62 copy of the petition for involuntary inpatient  
63 placement to the Agency for Health Care  
64 Administration; requiring an attorney representing an  
65 individual in involuntary placement to represent the  
66 individual's expressed desires; requiring the state  
67 attorney to participate in all hearings on involuntary  
68 placement; prohibiting continuance requests from  
69 parties other than the individual; requiring the court  
70 to also conduct a hearing on capacity to consent to  
71 treatment; providing for the appointment of a guardian  
72 advocate if an individual is found incompetent;  
73 requiring the court to allow certain testimony at  
74 hearings on involuntary placement; requiring the  
75 Division of Administrative Hearings to inform an  
76 individual of his or her right to an independent  
77 expert examination; amending ss. 394.46715 and  
78 394.4672, F.S.; conforming terms; repealing s.  
79 394.4674, F.S., relating to a plan and report on the  
80 deinstitutionalization of patients in treatment  
81 facilities; amending s. 394.4685, F.S.; conforming  
82 terms; authorizing a public facility to request the  
83 transfer of an individual to a private facility;  
84 amending s. 394.469, F.S.; conforming terms; requiring  
85 a discharged individual who is charged with a crime to  
86 be returned to the custody of a law enforcement  
87 agency; amending ss. 394.473, 394.475, 394.4785,

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88 394.4786, 394.47865, 394.4787, 394.4788, and 394.4789,  
89 F.S.; conforming terms; amending ss. 39.407, 394.495,  
90 394.496, 394.9085, 419.001, and 744.704, F.S.;  
91 conforming cross-references; providing an effective  
92 date.

93

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

95

96 Section 1. Section 394.453, Florida Statutes, is amended to  
97 read:

98 394.453 Legislative intent.—It is the intent of the  
99 Legislature to authorize and direct the Department of Children  
100 and Family Services to evaluate, research, plan, and recommend  
101 to the Governor and the Legislature programs designed to reduce  
102 the occurrence, severity, duration, and disabling aspects of  
103 mental, emotional, and behavioral disorders. It is the intent of  
104 the Legislature that treatment programs for such disorders ~~shall~~  
105 ~~include, but not be limited to,~~ comprehensive health, social,  
106 educational, and rehabilitative services for individuals ~~to~~  
107 ~~persons~~ requiring intensive short-term and continued treatment  
108 in order to encourage them to assume responsibility for their  
109 treatment and recovery. It is intended that such individuals  
110 ~~persons~~ be provided with emergency service and temporary  
111 detention for evaluation if ~~when~~ required; that they be admitted  
112 to treatment facilities on a voluntary basis if ~~when~~ extended or  
113 continuing care is needed and unavailable in the community; that  
114 involuntary placement be provided only if ~~when~~ expert evaluation  
115 determines that it is necessary; that any involuntary treatment  
116 or examination be accomplished in a setting that ~~which~~ is

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117 clinically appropriate and most likely to facilitate the  
 118 individual's ~~person's~~ return to the community as soon as  
 119 possible; and that ~~individual~~ dignity and human rights be  
 120 guaranteed to all individuals ~~persons~~ who are admitted to mental  
 121 health facilities or who are being held under s. 394.463. It is  
 122 the further intent of the Legislature that the least restrictive  
 123 means of intervention be employed based on the individual's  
 124 ~~individual~~ needs ~~of each person,~~ within the scope of available  
 125 services. It is the policy of this state that the use of  
 126 restraint and seclusion ~~on clients~~ is justified only as an  
 127 emergency safety measure to be used in response to imminent  
 128 danger to the individual ~~client~~ or others. It is, therefore, the  
 129 intent of the Legislature to achieve an ongoing reduction in the  
 130 use of restraint and seclusion in programs and facilities  
 131 serving individuals who have ~~persons with~~ mental illness.

132 Section 2. Section 394.455, Florida Statutes, is amended to  
 133 read:

134 394.455 Definitions.—As used in this part, ~~unless the~~  
 135 ~~context clearly requires otherwise,~~ the term:

136 (1) "Administrator" means the chief administrative officer  
 137 of a receiving or treatment facility or his or her designee.

138 (2) "Advance directive" has the same meaning as in s.  
 139 765.101.

140 (3) ~~(2)~~ "Clinical psychologist" means a psychologist as  
 141 defined in s. 490.003 ~~490.003(7) with 3 years of postdoctoral~~  
 142 ~~experience in the practice of clinical psychology, inclusive of~~  
 143 ~~the experience required for licensure,~~ or a psychologist  
 144 employed by a facility operated by the United States Department  
 145 of Veterans Affairs or the United States Department of Defense

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146 ~~that qualifies as a receiving or treatment facility under this~~  
147 ~~part.~~

148 (4)~~(3)~~ "Clinical record" means all parts of the record  
149 required to be maintained and includes all medical records,  
150 progress notes, charts, and admission and discharge data, and  
151 all other information recorded by a facility staff which  
152 pertains to an individual's ~~the patient's~~ hospitalization or  
153 treatment.

154 (5)~~(4)~~ "Clinical social worker" has the same meaning as  
155 provided in s. 491.003 ~~means a person licensed as a clinical~~  
156 ~~social worker under chapter 491.~~

157 (6)~~(5)~~ "Community facility" means a ~~any~~ community service  
158 provider contracting with the department to furnish substance  
159 abuse or mental health services under part IV of this chapter.

160 (7)~~(6)~~ "Community mental health center or clinic" means a  
161 publicly funded, not-for-profit center that ~~which~~ contracts with  
162 the department for the provision of inpatient, outpatient, day  
163 treatment, or emergency services.

164 (8)~~(7)~~ "Court," unless otherwise specified, means the  
165 circuit court.

166 (9)~~(8)~~ "Department" means the Department of Children and  
167 Family Services.

168 (10)~~(9)~~ "Express and informed consent" means consent  
169 voluntarily given in writing, by a competent individual ~~person~~,  
170 after sufficient explanation and disclosure of the subject  
171 matter involved to enable the individual ~~person~~ to make a  
172 knowing and willful decision without any element of force,  
173 fraud, deceit, duress, or other form of constraint or coercion.

174 (11)~~(10)~~ "Facility" means a ~~any~~ hospital, community

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175 facility, public or private facility, or receiving or treatment  
176 facility providing for the evaluation, diagnosis, care,  
177 treatment, training, or hospitalization of individuals ~~persons~~  
178 who appear to have ~~a mental illness~~ or who have been diagnosed  
179 as having a mental illness. The term "Facility" does not include  
180 a any program or entity licensed under ~~pursuant to~~ chapter 400  
181 or chapter 429.

182 (12) "Government facility" means a facility owned,  
183 operated, directly supported, or administered by the Department  
184 of Corrections or the United States Department of Veterans  
185 Affairs.

186 (13)~~(11)~~ "Guardian" means the natural guardian of a minor,  
187 or a person appointed by a court to act on behalf of a ward's  
188 person if the ward is a minor or has been adjudicated  
189 incapacitated.

190 (14)~~(12)~~ "Guardian advocate" means a person appointed by a  
191 court to make decisions regarding mental health treatment on  
192 behalf of an individual ~~a patient~~ who has been found incompetent  
193 to consent to treatment pursuant to this part. The guardian  
194 advocate may be granted specific additional powers by written  
195 order of the court, as provided in this part.

196 (15)~~(13)~~ "Hospital" means a hospital ~~facility as defined in~~  
197 ~~s. 395.002 and~~ licensed under chapter 395 and part II of chapter  
198 408.

199 (16)~~(14)~~ "Incapacitated" means that an individual ~~a person~~  
200 has been adjudicated incapacitated pursuant to part V of chapter  
201 744 and a guardian of the person has been appointed.

202 (17)~~(15)~~ "Incompetent to consent to treatment" means that  
203 an individual's ~~a person's~~ judgment is so affected by ~~his or her~~

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204 mental illness that he or she ~~the person~~ lacks the capacity to  
 205 make a well-reasoned, willful, and knowing decision concerning  
 206 his or her medical or mental health treatment.

207 (18) "Involuntary examination" means an examination  
 208 performed under s. 394.463 to determine if an individual  
 209 qualifies for involuntary inpatient treatment under s. 394.467  
 210 or involuntary outpatient treatment under s. 394.4655.

211 (19) "Involuntary placement" means involuntary outpatient  
 212 treatment pursuant to s. 394.4655 or involuntary inpatient  
 213 treatment pursuant to s. 394.467.

214 (20)~~(16)~~ "Law enforcement officer" has the same meaning as  
 215 provided ~~means a law enforcement officer as defined in s.~~  
 216 943.10.

217 (21) "Marriage and family therapist" has the same meaning  
 218 as provided in s. 491.003.

219 (22) "Mental health counselor" has the same meaning as  
 220 provided in s. 491.003.

221 (23)~~(17)~~ "Mental health overlay program" means a mobile  
 222 service that ~~which~~ provides an independent examination for  
 223 voluntary admission ~~admissions~~ and a range of supplemental  
 224 onsite services to an individual who has ~~persons with~~ a mental  
 225 illness in a residential setting such as a nursing home,  
 226 assisted living facility, adult family-care home, or a  
 227 nonresidential setting such as an adult day care center.  
 228 Independent examinations provided pursuant to this part through  
 229 a mental health overlay program must ~~only~~ be provided only under  
 230 contract with the department ~~for this service~~ or be attached to  
 231 a public receiving facility that is also a community mental  
 232 health center.



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233        (24)~~(18)~~ "Mental illness" means an impairment of the mental  
234 or emotional processes that exercise conscious control of one's  
235 actions or of the ability to perceive or understand reality,  
236 which impairment substantially interferes with the a person's  
237 ability to meet the ordinary demands of living, ~~regardless of~~  
238 ~~etiology~~. For the purposes of this part, the term does not  
239 include a retardation or developmental disability as defined in  
240 chapter 393, intoxication, brain injury, dementia, or conditions  
241 manifested only by antisocial behavior or substance abuse  
242 impairment.

243        (25)~~(19)~~ "Mobile crisis response service" means a  
244 nonresidential crisis service attached to a public receiving  
245 facility and available 24 hours a day, 7 days a week, ~~through~~  
246 which provides immediate intensive assessments and  
247 interventions, including screening for admission into a  
248 receiving facility, ~~take place~~ for the purpose of identifying  
249 appropriate treatment services.

250        ~~(20) "Patient" means any person who is held or accepted for~~  
251 ~~mental health treatment.~~

252        (26)~~(21)~~ "Physician" means a medical practitioner licensed  
253 under chapter 458 or chapter 459 ~~who has experience in the~~  
254 ~~diagnosis and treatment of mental and nervous disorders~~ or a  
255 physician employed by a facility operated by the United States  
256 Department of Veterans Affairs or the United States Department  
257 of Defense ~~which qualifies as a receiving or treatment facility~~  
258 ~~under this part.~~

259        (27) "Physician assistant" means a person licensed as a  
260 physician assistant under chapter 458 or chapter 459.

261        (28)~~(22)~~ "Private facility" means any hospital or facility

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262 operated by a for-profit or not-for-profit corporation or  
263 association that provides mental health services and is not a  
264 public facility.

265 ~~(29)-(23)~~ "Psychiatric nurse" means an advanced a registered  
266 nurse practitioner licensed under part I of chapter 464 who has  
267 a national advanced practice certification from an approved  
268 nursing specialty board and a collaborative practice agreement  
269 with a psychiatrist on file with the Board of Nursing ~~master's~~  
270 ~~degree or a doctorate in psychiatric nursing and 2 years of~~  
271 ~~post-master's clinical experience under the supervision of a~~  
272 ~~physician.~~

273 ~~(30)-(24)~~ "Psychiatrist" means a medical practitioner  
274 licensed under chapter 458 or chapter 459 ~~who has primarily~~  
275 ~~diagnosed and treated mental and nervous disorders for a period~~  
276 ~~of not less than 3 years, inclusive of psychiatric residency.~~

277 ~~(31)-(25)~~ "Public facility" means any facility that has  
278 contracted with the department to provide mental health services  
279 to all individuals ~~persons~~, regardless of ~~their~~ ability to pay,  
280 and is receiving state funds for such purpose.

281 ~~(32)-(26)~~ "Receiving facility" means any public or private  
282 facility expressly designated by the department to receive and  
283 hold individuals involuntarily ~~involuntary patients~~ under  
284 emergency conditions or for psychiatric evaluation and to  
285 provide short-term treatment. The term does not include a county  
286 jail.

287 ~~(33)-(27)~~ "Representative" means a person selected pursuant  
288 to s. 394.4597(2) ~~to receive notice of proceedings during the~~  
289 ~~time a patient is held in or admitted to a receiving or~~  
290 ~~treatment facility.~~

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291 (34)~~(28)~~(a) "Restraint" means a physical device, method, or  
292 drug used to control behavior.

293 (a) A physical restraint is any manual method or physical  
294 or mechanical device, material, or equipment attached or  
295 adjacent to an ~~the~~ individual's body so that he or she cannot  
296 easily remove the restraint and which restricts freedom of  
297 movement or normal access to one's body.

298 (b) A drug used as a restraint is a medication used to  
299 control an individual's ~~the person's~~ behavior or to restrict his  
300 or her freedom of movement and is not part of the standard  
301 treatment regimen for an individual having ~~of a person with~~ a  
302 diagnosed mental illness who is a client of the department.  
303 Physically holding an individual ~~a person~~ during a procedure to  
304 forcibly administer psychotropic medication is a physical  
305 restraint.

306 (c) Restraint does not include physical devices, such as  
307 orthopedically prescribed appliances, surgical dressings and  
308 bandages, supportive body bands, or other physical holding ~~when~~  
309 necessary for routine physical examinations and tests; ~~or~~ for  
310 ~~purposes of~~ orthopedic, surgical, or other similar medical  
311 treatment; ~~when used~~ to provide support for the achievement of  
312 functional body position or proper balance; or ~~when used~~ to  
313 protect an individual ~~a person~~ from falling out of bed.

314 (35)~~(29)~~ "Seclusion" means the physical segregation ~~of a~~  
315 ~~person in any fashion~~ or involuntary isolation of an individual  
316 ~~a person~~ in a room or area from which the individual ~~person~~ is  
317 prevented from leaving. The prevention may be by physical  
318 barrier or by a staff member who is acting in a manner, or who  
319 is physically situated, so as to prevent the individual ~~person~~

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320 from leaving the room or area. For purposes of this chapter, the  
321 term does not mean isolation due to a ~~person's~~ medical condition  
322 or symptoms.

323 ~~(36)-(30)~~ "Secretary" means the Secretary of Children and  
324 Family Services.

325 (37) "Service provider" means a public or private receiving  
326 facility, an entity under contract with the department to  
327 provide mental health services, a community mental health center  
328 or clinic, a clinical psychologist, a clinical social worker, a  
329 marriage and family therapist, a mental health counselor, a  
330 physician, or a psychiatric nurse.

331 ~~(38)-(31)~~ "Transfer evaluation" means the process, as  
332 approved by the appropriate ~~district~~ office of the department,  
333 during which an individual ~~whereby a person who is being~~  
334 ~~considered for placement in a state treatment facility is first~~  
335 evaluated for appropriateness of admission to a state treatment  
336 ~~the~~ facility by a community-based public receiving facility or  
337 by a community mental health center or clinic if the public  
338 receiving facility is not a community mental health center or  
339 clinic.

340 ~~(39)-(32)~~ "Treatment facility" means a ~~any~~ state-owned,  
341 state-operated, or state-supported hospital, or a community  
342 mental health center, or clinic, designated by the department  
343 for extended treatment and hospitalization of individuals who  
344 have a mental illness, ~~beyond that provided for~~ by a receiving  
345 facility or a, ~~of persons who have a mental illness, including~~  
346 ~~facilities of the United States Government, and any private~~  
347 facility designated by the department when rendering such  
348 services to a person pursuant to the provisions of this part.

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349 ~~Patients treated in facilities of the United States Government~~  
350 ~~shall be solely those whose care is the responsibility of the~~  
351 ~~United States Department of Veterans Affairs.~~

352 ~~(33) "Service provider" means any public or private~~  
353 ~~receiving facility, an entity under contract with the department~~  
354 ~~of Children and Family Services to provide mental health~~  
355 ~~services, a clinical psychologist, a clinical social worker, a~~  
356 ~~marriage and family therapist, a mental health counselor, a~~  
357 ~~physician, a psychiatric nurse as defined in subsection (23), or~~  
358 ~~a community mental health center or clinic as defined in this~~  
359 ~~part.~~

360 ~~(34) "Involuntary examination" means an examination~~  
361 ~~performed under s. 394.463 to determine if an individual~~  
362 ~~qualifies for involuntary inpatient treatment under s.~~  
363 ~~394.467(1) or involuntary outpatient treatment under s.~~  
364 ~~394.4655(1).~~

365 ~~(35) "Involuntary placement" means either involuntary~~  
366 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~  
367 ~~inpatient treatment pursuant to s. 394.467.~~

368 ~~(36) "Marriage and family therapist" means a person~~  
369 ~~licensed as a marriage and family therapist under chapter 491.~~

370 ~~(37) "Mental health counselor" means a person licensed as a~~  
371 ~~mental health counselor under chapter 491.~~

372 Section 3. Section 394.457, Florida Statutes, is amended to  
373 read:

374 394.457 Operation and administration.—

375 (1) ADMINISTRATION.—The Department of Children and Family  
376 Services is designated the "Mental Health Authority" of Florida.  
377 The department and the Agency for Health Care Administration

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378 shall exercise executive and administrative supervision over all  
379 mental health facilities, programs, and services.

380 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is  
381 responsible for:

382 (a) The planning, evaluation, and implementation of a  
383 complete and comprehensive statewide program of mental health,  
384 including community services, receiving and treatment  
385 facilities, child services, research, and training as authorized  
386 and approved by the Legislature, based on the annual program  
387 budget of the department. The department is also responsible for  
388 the coordination of efforts with other departments and divisions  
389 of the state government, county and municipal governments, and  
390 private agencies concerned with and providing mental health  
391 services. It is responsible for establishing standards,  
392 providing technical assistance, and supervising ~~exercising~~  
393 ~~supervision of~~ mental health programs ~~of~~, and the treatment of  
394 individuals ~~patients~~ at, community facilities, other facilities  
395 serving individuals ~~for persons~~ who have a mental illness, and  
396 any agency or facility providing services under ~~to patients~~  
397 ~~pursuant to~~ this part.

398 (b) The publication and distribution of an information  
399 handbook to facilitate the understanding of ~~this part~~, the  
400 policies and procedures involved in the implementation of this  
401 part, and the responsibilities of the various service providers  
402 ~~of services~~ under this part. The department ~~It~~ shall stimulate  
403 research by public and private agencies, institutions of higher  
404 learning, and hospitals in the interest of the elimination and  
405 amelioration of mental illness.

406 (3) POWER TO CONTRACT.—The department may contract to

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407 provide, and be provided with, services and facilities in order  
408 to carry out its responsibilities under this part with respect  
409 to the following agencies: public and private hospitals;  
410 receiving and treatment facilities; clinics; laboratories;  
411 departments, divisions, and other units of state government; ~~the~~  
412 state colleges and universities; ~~the~~ community colleges; private  
413 colleges and universities; counties, municipalities, and ~~any~~  
414 other political subdivisions ~~governmental unit~~, including  
415 facilities of the United States Government; and any other public  
416 or private entity that ~~which~~ provides or needs facilities or  
417 services. Baker Act funds for community inpatient, crisis  
418 stabilization, short-term residential treatment, and screening  
419 services under this part must be allocated to each county  
420 pursuant to the department's funding allocation methodology.  
421 Notwithstanding ~~the provisions of~~ s. 287.057(5)(f), contracts  
422 for community-based Baker Act services for inpatient, crisis  
423 stabilization, short-term residential treatment, and screening  
424 ~~provided~~ under this part, other than those with other units of  
425 government, ~~to be provided for the department~~ must be awarded  
426 using competitive solicitation if sealed bids ~~when~~ the county  
427 commission of the county receiving the services makes a request  
428 to the department's circuit ~~district~~ office by January 15 of the  
429 contracting year. The office may ~~district shall~~ not enter into a  
430 competitively bid contract ~~under this provision~~ if such action  
431 will result in increases of state or local expenditures for  
432 Baker Act services within the circuit ~~district~~. Contracts for  
433 ~~these~~ Baker Act services using competitive solicitation are  
434 ~~sealed bids will be~~ effective for 3 years. The department shall  
435 adopt rules establishing minimum standards for such contracted

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436 services and facilities and shall make periodic audits and  
437 inspections to assure that the contracted services are provided  
438 and meet the standards of the department.

439 (4) APPLICATION FOR AND ACCEPTANCE OF GIFTS AND GRANTS.—The  
440 department may apply for and accept any funds, grants, gifts, or  
441 services made available to it by any agency or department of the  
442 Federal Government or any other public or private agency or  
443 person ~~individual~~ in aid of mental health programs. All such  
444 moneys must ~~shall~~ be deposited in the State Treasury and ~~shall~~  
445 ~~be~~ disbursed as provided by law.

446 (5) RULES.—The department shall adopt rules:

447 (a) ~~The department shall adopt rules~~ Establishing forms and  
448 procedures relating to the rights and privileges of individuals  
449 ~~patients~~ seeking mental health treatment from facilities under  
450 this part.

451 (b) ~~The department shall adopt rules~~ Necessary for the  
452 implementation and administration of the provisions of this  
453 part, ~~and~~ A program subject to ~~the provisions of this part~~ may  
454 ~~shall not be permitted to~~ operate unless rules designed to  
455 ensure the protection of the health, safety, and welfare of the  
456 individuals ~~patients~~ treated under ~~through~~ such program have  
457 been adopted. Such rules ~~adopted under this subsection~~ must  
458 include provisions governing the use of restraint and seclusion  
459 which are consistent with recognized best practices and  
460 professional judgment; prohibit inherently dangerous restraint  
461 or seclusion procedures; establish limitations on the use and  
462 duration of restraint and seclusion; establish measures to  
463 ensure the safety of program participants and staff during an  
464 incident of restraint or seclusion; establish procedures for



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465 staff to follow before, during, and after incidents of restraint  
466 or seclusion; establish professional qualifications ~~of~~ and  
467 training for staff who may order or be engaged in the use of  
468 restraint or seclusion; and establish mandatory reporting, data  
469 collection, and data dissemination procedures and requirements.  
470 Such rules ~~adopted under this subsection~~ must require that each  
471 instance of the use of restraint or seclusion be documented in  
472 the clinical record of the individual who has been restrained or  
473 secluded patient.

474 (c) ~~The department shall adopt rules~~ Establishing minimum  
475 standards for services provided by a mental health overlay  
476 program or a mobile crisis response service.

477 (6) PERSONNEL.—

478 (a) The department shall, by rule, establish minimum  
479 standards of education and experience for professional and  
480 technical personnel employed in mental health programs,  
481 including members of a mobile crisis response service.

482 (b) The department shall design and distribute appropriate  
483 materials for the orientation and training of persons actively  
484 engaged in implementing the provisions of this part relating to  
485 the involuntary examination and placement of individuals ~~persons~~  
486 who are believed to have a mental illness.

487 (7) PAYMENT FOR CARE ~~OF PATIENTS~~.—Fees and fee collections  
488 for individuals receiving treatment or services ~~patients~~ in  
489 state-owned, state-operated, or state-supported treatment  
490 facilities must ~~shall~~ be in accordance with ~~according to~~ s.  
491 402.33.

492 Section 4. Section 394.4572, Florida Statutes, is amended  
493 to read:

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494 394.4572 Screening of mental health personnel.-

495 (1) ~~(a)~~ The department and the Agency for Health Care  
496 Administration shall require employment screening for mental  
497 health personnel using ~~the standards for~~ level 2 screening  
498 standards provided in s. 435.04 set forth in chapter 435.  
499 "Mental health personnel" includes all program directors,  
500 professional clinicians, staff members, and volunteers working  
501 in public or private mental health programs and facilities who  
502 have direct contact with individuals held for examination or  
503 admitted for mental health treatment ~~unmarried patients under~~  
504 ~~the age of 18 years. For purposes of this chapter, employment~~  
505 ~~screening of mental health personnel shall also include, but is~~  
506 ~~not limited to, employment screening as provided under chapter~~  
507 ~~435.~~

508 (a) ~~(b)~~ Students in the health care professions who are  
509 interning in a mental health facility licensed under chapter  
510 395, where the primary purpose of the facility is not the  
511 treatment of minors, are exempt from the fingerprinting and  
512 screening requirements if, ~~provided~~ they are under direct  
513 supervision in the actual physical presence of a licensed health  
514 care professional.

515 ~~(c)~~ ~~Mental health personnel working in a facility licensed~~  
516 ~~under chapter 395 who have less than 15 hours per week of direct~~  
517 ~~contact with patients or who are health care professionals~~  
518 ~~licensed by the Agency for Health Care Administration or a board~~  
519 ~~thereunder are exempt from the fingerprinting and screening~~  
520 ~~requirements, except for persons working in mental health~~  
521 ~~facilities where the primary purpose of the facility is the~~  
522 ~~treatment of minors.~~

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523           **(b)**~~(d)~~ A volunteer who assists on an intermittent basis for  
524 less than 40 hours per month is exempt from the fingerprinting  
525 and screening requirements if, ~~provided~~ the volunteer is under  
526 direct and constant supervision by persons who meet the  
527 screening requirements of this section ~~paragraph (a)~~.

528           (2) The department or the Agency for Health Care  
529 Administration may grant exemptions from disqualification as  
530 provided in s. 435.07 ~~435.06~~.

531           (3) Prospective mental health personnel who have previously  
532 been fingerprinted or screened pursuant to this chapter, chapter  
533 393, chapter 397, chapter 402, or chapter 409, or teachers who  
534 have been fingerprinted pursuant to chapter 1012, who have not  
535 been unemployed for more than 90 days thereafter, and who under  
536 the penalty of perjury attest to ~~the~~ completion of such  
537 fingerprinting or screening and to compliance with the  
538 provisions of this section and the standards for level 1  
539 screening under ~~contained in~~ chapter 435, are ~~shall~~ not be  
540 required to be refingerprinted or rescreened in order to comply  
541 with the ~~any~~ screening requirements of this part.

542           Section 5. Section 394.4573, Florida Statutes, is amended  
543 to read:

544           394.4573 Continuity of care management system; measures of  
545 performance; reports.—

546           (1) For the purposes of this section:

547           (a) "Case management" means ~~those~~ activities aimed at  
548 assessing the ~~client~~ needs, planning services, linking the  
549 service system ~~to a client~~, coordinating the various system  
550 components, monitoring service delivery, and evaluating the  
551 effect of service delivery for individuals eligible for publicly

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552 funded mental health services.

553 (b) "Case manager" means a person ~~an individual~~ who works  
554 with individuals who are eligible for publicly funded mental  
555 health services clients, and their families and significant  
556 others, to provide case management.

557 (c) "Client manager" means an employee of the department  
558 who is assigned to specific provider agencies and geographic  
559 areas to ensure that the full range of needed services is  
560 available to individuals who are eligible for publicly funded  
561 mental health services clients.

562 (d) "Continuity of care management system" means a system  
563 that assures, within available resources, that individuals who  
564 are eligible for publicly funded mental health services clients  
565 have access to the full array of services within the mental  
566 health services delivery system.

567 (2) The department shall ~~is directed to~~ implement a  
568 continuity of care management system for the provision of mental  
569 health care, through the provision of client and case  
570 management, including individuals clients referred from state  
571 treatment facilities to community mental health facilities. Such  
572 system must ~~shall~~ include a statewide network of client managers  
573 and case managers ~~throughout the state~~ designed to:

574 (a) Reduce the possibility of an individual's ~~a client's~~  
575 admission or readmission to a state treatment facility.

576 (b) Provide for the creation or designation of an agency in  
577 each county to provide single intake services for each  
578 individual person seeking mental health services. Such agency  
579 shall provide information and referral services necessary to  
580 ensure that such individuals clients receive the most

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581 appropriate and least restrictive form of care, based on the  
582 individual's ~~individual~~ needs ~~of the person seeking treatment~~.  
583 Such agency shall have a single telephone number, operating 24  
584 hours per day, 7 days per week, if ~~where~~ practicable, at a  
585 central location, where each individual receiving mental health  
586 services has ~~client will have~~ a client ~~central~~ record.

587 (c) Advocate on behalf of the individual receiving mental  
588 health services ~~client~~ to ensure that all appropriate services  
589 are provided ~~afforded to the client~~ in a timely and dignified  
590 manner.

591 (d) Require a ~~that any~~ public receiving facility initiating  
592 an individual's ~~a patient~~ transfer to a licensed hospital for  
593 acute care mental health services not accessible through the  
594 public receiving facility to ~~shall~~ notify the hospital of the  
595 ~~such~~ transfer and send all records relating to the emergency  
596 psychiatric or medical condition.

597 (3) The department shall ~~is directed to~~ develop and include  
598 performance measures in contracts with service providers  
599 relating to ~~measures of performance with regard to~~ goals and  
600 objectives ~~as~~ specified in the state plan. ~~Such measures shall~~  
601 ~~use,~~ To the extent practical, such measures must use existing  
602 data collection methods and reports and may ~~shall~~ not require,  
603 ~~as a result of this subsection,~~ additional reports on the part  
604 of service providers. The department shall plan monitoring  
605 visits of community mental health facilities with other state,  
606 federal, and local governmental and private agencies charged  
607 with monitoring such facilities.

608 ~~(4) The department is directed to submit a report to the~~  
609 ~~Legislature, prior to April 1 of each year, outlining~~

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610 ~~departmental progress towards the implementation of the minimum~~  
611 ~~staffing patterns' standards in state mental health treatment~~  
612 ~~facilities. The report shall contain, by treatment facility,~~  
613 ~~information regarding goals and objectives and departmental~~  
614 ~~performance toward meeting each such goal and objective.~~

615 Section 6. Paragraph (a) of subsection (2) and subsection  
616 (3) of section 394.4574, Florida Statutes, are amended to read:

617 394.4574 Department responsibilities for a mental health  
618 resident who resides in an assisted living facility that holds a  
619 limited mental health license.—

620 (2) The department shall ~~must~~ ensure that:

621 (a) A mental health resident has been assessed by a  
622 psychiatrist, clinical psychologist, clinical social worker, or  
623 psychiatric nurse, or an individual who is supervised by one of  
624 these professionals, and determined to be appropriate to reside  
625 in an assisted living facility. The documentation must be  
626 provided to the administrator of the facility within 30 days  
627 after the mental health resident has been admitted to the  
628 facility. An evaluation completed upon discharge from a state  
629 mental health treatment facility ~~hospital~~ meets the requirements  
630 of this subsection related to appropriateness for placement as a  
631 mental health resident if it was completed within 90 days before  
632 ~~prior to~~ admission to the facility.

633 (3) The secretary ~~of Children and Family Services~~, in  
634 consultation with the Agency for Health Care Administration,  
635 shall annually require each circuit ~~district~~ administrator to  
636 develop, with community input, detailed plans that demonstrate  
637 how the circuit ~~district~~ will ensure the provision of state-  
638 funded mental health and substance abuse treatment services to

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639 residents of assisted living facilities that hold a limited  
640 mental health license. These plans must be consistent with the  
641 substance abuse and mental health circuit ~~district~~ plan  
642 developed pursuant to s. 394.75 and must address case management  
643 services; access to consumer-operated drop-in centers; access to  
644 services during evenings, weekends, and holidays; supervision of  
645 the clinical needs of the residents; and access to emergency  
646 psychiatric care.

647 Section 7. Subsection (1) of section 394.458, Florida  
648 Statutes, is amended to read:

649 394.458 Introduction or removal of certain articles  
650 unlawful; penalty.-

651 (1) ~~(a)~~ Except as authorized by law or as specifically  
652 authorized by the person in charge of a receiving or treatment  
653 facility ~~each hospital~~ providing mental health services under  
654 this part, it is unlawful to:

655 (a) Introduce into or upon the grounds of such facility  
656 ~~hospital~~, or to take or attempt to take or send from the  
657 facility ~~therefrom~~, any of the following articles, which are  
658 ~~hereby declared to be~~ contraband for the purposes of this  
659 section:

- 660 1. An ~~Any~~ intoxicating beverage or beverage that ~~which~~  
661 causes or may cause an intoxicating effect;
- 662 2. A ~~Any~~ controlled substance as defined in chapter 893; or
- 663 3. A firearm ~~Any firearms~~ or deadly weapon.

664 (b) ~~It is unlawful to~~ Transmit to, or attempt to transmit  
665 to, or cause or attempt to cause to be transmitted to, or  
666 received by, any individual receiving mental health services  
667 from a receiving or treatment facility ~~patient of any hospital~~

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668 ~~providing mental health services under this part~~ any article or  
669 thing declared by this section to be contraband, at any place  
670 ~~which is outside of the grounds of such facility hospital,~~  
671 ~~except as authorized by law or as specifically authorized by the~~  
672 ~~person in charge of such hospital.~~

673 Section 8. Section 394.459, Florida Statutes, is amended to  
674 read:

675 394.459 Rights of individuals receiving treatment and  
676 services patients.-

677 (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.-It is the policy of this  
678 state that the individual dignity of all individuals held for  
679 examination or admitted for mental health treatment ~~the patient~~  
680 ~~shall~~ be respected at all times and upon all occasions,  
681 including ~~any occasion~~ when the individual ~~patient~~ is taken into  
682 custody, held, or transported. Procedures, facilities, vehicles,  
683 and restraining devices used ~~utilized~~ for criminals or those  
684 accused of a crime ~~may~~ ~~shall~~ not be used in connection with  
685 individuals ~~persons~~ who have a mental illness, except for the  
686 protection of that individual ~~the patient~~ or others. Individuals  
687 ~~Persons~~ who have a mental illness but who are not charged with a  
688 criminal offense ~~may~~ ~~shall~~ not be detained or incarcerated in  
689 the jails of this state. An individual ~~A person~~ who is receiving  
690 treatment for mental illness ~~may~~ ~~shall~~ not be deprived of any  
691 constitutional rights. However, if such individual ~~a person~~ is  
692 adjudicated incapacitated, his or her rights may be limited to  
693 the same extent that the rights of any incapacitated person are  
694 limited by law.

695 (2) RIGHT TO TREATMENT.-Each individual held for  
696 examination or admitted for mental health treatment:



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697 (a) May ~~A person shall~~ not be denied treatment for mental  
698 illness and services may ~~shall~~ not be delayed at a receiving or  
699 treatment facility because of inability to pay. However, every  
700 reasonable effort to collect appropriate reimbursement for the  
701 cost of providing mental health services from individuals ~~to~~  
702 ~~persons~~ able to pay for services, including insurance or third-  
703 party payers ~~payments~~, shall be made by facilities providing  
704 services under ~~pursuant to~~ this part.

705 (b) Shall be provided ~~It is further the policy of the state~~  
706 ~~that~~ the least restrictive appropriate available treatment, be  
707 ~~utilized~~ based on the individual's ~~individual~~ needs and best  
708 interests ~~of the patient,~~ and consistent with the optimum  
709 improvement of the individual's ~~patient's~~ condition.

710 (c) ~~Each person~~ Who remains at a receiving or treatment  
711 facility for more than 12 hours, shall be given a physical  
712 examination by a health practitioner, authorized by law to give  
713 such examinations, and an evaluation by a psychiatrist, within  
714 24 hours after arrival at such facility. The physical  
715 examination and psychiatric evaluation must be documented in the  
716 clinical record.

717 (d) ~~Every patient in a facility~~ Shall be afforded the  
718 opportunity to participate in activities designed to enhance  
719 self-image and the beneficial effects of other treatments, as  
720 determined by the facility.

721 (e) ~~Not more than 5 days after admission to a facility,~~  
722 ~~each patient~~ Shall have and receive an individualized treatment  
723 plan in writing, which the individual patient has had an  
724 opportunity to assist in preparing and to review prior to ~~its~~  
725 implementation, within 5 days after admission to a facility. The

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726 plan must ~~shall~~ include a space for the individual's ~~patient's~~  
727 comments.

728 (3) RIGHT TO EXPRESS AND INFORMED ~~PATIENT~~ CONSENT.—

729 (a)~~1.~~ Each individual ~~patient~~ entering treatment shall be  
730 asked to give express and informed consent for admission or  
731 treatment.

732 1. If the individual ~~patient~~ has been adjudicated  
733 incapacitated or found to be incompetent to consent to  
734 treatment, express and informed consent must ~~to treatment shall~~  
735 be sought instead from his or her ~~the patient's~~ guardian or  
736 guardian advocate. If the individual ~~patient~~ is a minor, express  
737 and informed consent for admission or treatment must be obtained  
738 ~~shall also be requested from the patient's guardian. Express and~~  
739 ~~informed consent for admission or treatment of a patient under~~  
740 ~~18 years of age shall be required from the~~ minor's ~~patient's~~  
741 guardian, unless the minor is seeking outpatient crisis  
742 intervention services under s. 394.4784. ~~Express and informed~~  
743 ~~consent for admission or treatment given by a patient who is~~  
744 ~~under 18 years of age shall not be a condition of admission when~~  
745 ~~the patient's guardian gives express and informed consent for~~  
746 ~~the patient's admission pursuant to s. 394.463 or s. 394.467.~~

747 2. Before giving express and informed consent, the  
748 following information shall be provided and explained in plain  
749 language to the individual ~~patient~~, or to his or her ~~the~~  
750 ~~patient's~~ guardian if the individual ~~patient~~ is 18 years of age  
751 or older and has been adjudicated incapacitated, or to his or  
752 ~~her~~ ~~the patient's~~ guardian advocate if the individual ~~patient~~  
753 has been found to be incompetent to consent to treatment, or to  
754 both the individual ~~patient~~ and the guardian if the individual

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755 ~~patient~~ is a minor: the reason for admission or treatment; the  
756 proposed treatment; the purpose of the treatment to be provided;  
757 the common risks, benefits, and side effects ~~thereof~~; the  
758 specific dosage range for the medication, when applicable;  
759 alternative treatment modalities; the approximate length of  
760 care; the potential effects of stopping treatment; how treatment  
761 will be monitored; and that any consent given for treatment may  
762 be revoked orally or in writing before or during the treatment  
763 period by the individual receiving the treatment ~~patient~~ or by a  
764 person who is legally authorized to make health care decisions  
765 on the individual's behalf ~~of the patient~~.

766 (b) Before performing a medical procedure ~~In the case of~~  
767 ~~medical procedures~~ requiring the use of a general anesthetic or  
768 electroconvulsive treatment, ~~and prior to performing the~~  
769 ~~procedure,~~ express and informed consent must ~~shall~~ be obtained  
770 from the individual subject to the procedure ~~patient~~ if the  
771 individual ~~patient~~ is legally competent, from the guardian of a  
772 minor ~~patient~~, from the guardian of an individual ~~a patient~~ who  
773 has been adjudicated incapacitated, or from the individual's  
774 guardian advocate ~~of the patient~~ if the guardian advocate has  
775 been given express court authority to consent to medical  
776 procedures or electroconvulsive treatment as provided under s.  
777 394.4598.

778 (c) If ~~When~~ the department is the legal guardian ~~of a~~  
779 ~~patient,~~ or ~~is~~ the custodian of an individual ~~a patient~~ whose  
780 physician is unwilling to perform a medical procedure, including  
781 an electroconvulsive treatment, based solely on the individual's  
782 ~~patient's~~ consent and whose guardian or guardian advocate is  
783 unknown or unlocatable, the court shall hold a hearing to

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784 determine the medical necessity of the ~~medical~~ procedure. The  
785 individual subject to the procedure must ~~patient shall~~ be  
786 physically present, ~~unless~~ his or her ~~the patient's~~ medical  
787 condition precludes such presence, represented by counsel, and  
788 provided the right and opportunity to be confronted with, and to  
789 cross-examine, all witnesses alleging the medical necessity of  
790 such procedure. In such proceedings, the burden of proof by  
791 clear and convincing evidence is ~~shall be~~ on the party alleging  
792 the medical necessity of the procedure.

793 (d) The administrator of a receiving or treatment facility  
794 may, upon the recommendation of an individual's ~~the patient's~~  
795 attending physician, authorize emergency medical treatment,  
796 including a surgical procedure, ~~if~~ such treatment is deemed  
797 lifesaving, ~~or if~~ the situation threatens serious bodily harm to  
798 the individual patient, and the permission of the individual  
799 ~~patient~~ or his or her ~~the patient's~~ guardian or guardian  
800 advocate cannot be obtained.

801 (4) QUALITY OF TREATMENT.—

802 (a) Each individual held for examination or admitted for  
803 mental health treatment, or receiving involuntary outpatient  
804 treatment ~~patient shall receive services, including, for a~~  
805 ~~patient placed~~ under s. 394.4655, shall receive ~~those~~ services  
806 that are included in the court order which are suited to his or  
807 ~~her needs, and which shall be~~ administered skillfully, safely,  
808 and humanely with full respect for the individual's ~~patient's~~  
809 dignity and personal integrity. Each individual must ~~patient~~  
810 ~~shall~~ receive such medical, vocational, social, educational, and  
811 rehabilitative services as his or her condition requires in  
812 order to live successfully in the community. In order to achieve

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813 this goal, the department shall ~~is directed to~~ coordinate its  
814 mental health programs with all other programs of the department  
815 and other state agencies.

816 (b) Facilities shall develop and maintain, in a form  
817 accessible to and readily understandable by individuals held for  
818 examination or admitted for mental health treatment, ~~patients~~  
819 and consistent with rules adopted by the department, ~~the~~  
820 ~~following:~~

821 1. Criteria, procedures, and required staff training for  
822 the any use of close or elevated levels of supervision; ~~of~~  
823 restraint, seclusion, or isolation; ~~or of~~ emergency treatment  
824 orders; ~~and for the use of~~ bodily control and physical  
825 management techniques.

826 2. Procedures for documenting, monitoring, and requiring  
827 clinical review of all uses of the procedures described in  
828 subparagraph 1. and for documenting and requiring review of any  
829 incidents resulting in injury to individuals receiving services  
830 ~~patients.~~

831 3. A system for investigating, tracking, managing, and  
832 responding to complaints by individuals ~~persons~~ receiving  
833 services or persons ~~individuals~~ acting on their behalf.

834 4. Procedures for reporting events that place individuals  
835 receiving services at risk of harm. Such events must be reported  
836 to the department in accordance with department operating  
837 procedures after discovery and include, but are not limited to:

838 a. An individual whose life terminates due to a natural,  
839 unnatural, expected, or unexpected cause while in the facility  
840 or within 72 hours after release.

841 b. An injury sustained, or allegedly sustained, due to an

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842 accident, act of abuse, neglect, or suicide attempt requiring  
843 medical treatment by a licensed health care practitioner in an  
844 acute care medical facility.

845 c. The unauthorized absence of an individual in the care of  
846 a facility under this part.

847 d. An unusual occurrence or circumstance precipitated by  
848 something uncommon, abnormal, or out of the ordinary, such as a  
849 tornado, kidnapping, riot, or hostage situation that jeopardizes  
850 the health, safety, or welfare of the individual.

851 e. An allegation of sexual battery upon the individual.

852 (c) A facility may not use seclusion or restraint for  
853 punishment, to compensate for inadequate staffing, or for the  
854 convenience of staff. Facilities shall ensure that all staff are  
855 made aware of these restrictions ~~on the use of seclusion and~~  
856 ~~restraint and shall make and maintain records that which~~  
857 demonstrate that this information has been conveyed to each  
858 individual staff member members.

859 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

860 (a) Each individual held for examination or admitted for  
861 mental health treatment ~~person receiving services~~ in a facility  
862 providing mental health services under this part has the right  
863 to communicate freely and privately with persons outside the  
864 facility unless it is determined that such communication is  
865 likely to be harmful to the individual ~~person~~ or others. Each  
866 facility shall make ~~available as soon as reasonably possible to~~  
867 ~~persons receiving services~~ a telephone that allows for free  
868 local calls and access to a long-distance service available to  
869 the individual as soon as reasonably possible. A facility is not  
870 required to pay the costs of the individual's ~~a patient's~~ long-

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871 distance calls. The telephone must ~~shall~~ be readily accessible  
872 ~~to the patient~~ and ~~shall be~~ placed so that the individual  
873 ~~patient~~ may use it to communicate privately and confidentially.  
874 The facility may establish reasonable rules for the use of this  
875 telephone which, ~~provided that the rules~~ do not interfere with  
876 an individual's ~~a patient's~~ access to a telephone to report  
877 abuse pursuant to paragraph (e).

878 (b) Each individual ~~patient~~ admitted to a facility under  
879 ~~the provisions of~~ this part shall be allowed to receive, send,  
880 and mail sealed, unopened correspondence; and the individual's  
881 ~~no patient's~~ incoming or outgoing correspondence may not ~~shall~~  
882 be opened, delayed, held, or censored by the facility unless  
883 there is reason to believe that it contains items or substances  
884 that are ~~which may be~~ harmful to the individual ~~patient~~ or  
885 others, in which case the administrator may direct reasonable  
886 examination of such mail and may regulate the disposition of  
887 such items or substances.

888 (c) Each facility shall allow ~~must permit~~ immediate access  
889 to an individual held for examination or admitted for mental  
890 health treatment ~~any patient~~, subject to the ~~patient's~~ right to  
891 deny or withdraw consent at any time, by the individual, or by  
892 the individual's ~~patient's~~ family members, guardian, guardian  
893 advocate, representative, Florida statewide or local advocacy  
894 council, or attorney, unless such access would be detrimental to  
895 the individual ~~patient~~. If the ~~a patient's~~ right to communicate  
896 or to receive visitors is restricted by the facility, written  
897 notice of such restriction and the reasons for the restriction  
898 shall be served on the individual and ~~patient~~, the individual's  
899 ~~patient's~~ attorney, and ~~the patient's~~ guardian, guardian

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900 advocate, or representative, and such restriction, and the  
901 reasons for the restriction, must ~~shall~~ be recorded in ~~on~~ the  
902 ~~patient's~~ clinical record ~~with the reasons therefor~~. The  
903 restriction must ~~of a patient's right to communicate or to~~  
904 ~~receive visitors shall~~ be reviewed at least every 7 days. The  
905 right to communicate or receive visitors may ~~shall~~ not be  
906 restricted as a means of punishment. ~~Nothing in~~ This paragraph  
907 does not ~~shall be construed to~~ limit the provisions of paragraph  
908 (d).

909 (d) Each facility shall establish reasonable rules  
910 governing visitors, visiting hours, and the use of telephones by  
911 individuals held for examination or admitted for mental health  
912 treatment patients in the least restrictive possible manner. An  
913 individual has ~~Patients shall have~~ the right to contact and to  
914 receive communication from their attorneys at any reasonable  
915 time.

916 (e) Each individual held for examination or admitted for  
917 patient receiving mental health treatment ~~in any facility~~ shall  
918 have ready access to a telephone in order to report an alleged  
919 abuse. The facility staff shall orally and in writing inform  
920 each individual patient of the procedure for reporting abuse and  
921 shall make every reasonable effort to present the information in  
922 a language the individual patient understands. A written copy of  
923 that procedure, including the telephone number of the central  
924 abuse hotline and reporting forms, must ~~shall~~ be posted in plain  
925 view.

926 (f) The department shall adopt rules providing a procedure  
927 for reporting abuse. Facility staff ~~shall be required~~, as a  
928 condition of employment, must ~~to~~ become familiar with the



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929 requirements and procedures for ~~the~~ reporting of abuse.

930 (6) CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS.~~ The  
931 rights of an individual held for examination or admitted for  
932 mental health treatment ~~A patient's right~~ to the possession of  
933 his or her clothing and personal effects shall be respected. The  
934 facility may take temporary custody of such effects if ~~when~~  
935 required for medical and safety reasons. The ~~A patient's~~  
936 clothing and personal effects shall be inventoried upon their  
937 removal into temporary custody. Copies of this inventory shall  
938 be given to the individual patient and to his or her ~~the~~  
939 ~~patient's~~ guardian, guardian advocate, or representative and  
940 shall be recorded in the ~~patient's~~ clinical record. This  
941 inventory may be amended upon the request of the individual  
942 ~~patient~~ or his or her ~~the patient's~~ guardian, guardian advocate,  
943 or representative. The inventory and any amendments to it must  
944 be witnessed by two members of the facility staff and by the  
945 individual patient, if he or she is able. All of the a patient's  
946 clothing and personal effects held by the facility must ~~shall~~ be  
947 returned to the individual patient immediately upon his or her  
948 ~~the~~ discharge or transfer ~~of the patient~~ from the facility,  
949 unless such return would be detrimental to the individual  
950 ~~patient~~. If personal effects are not returned ~~to the patient~~,  
951 the reason must be documented in the clinical record along with  
952 the disposition of the clothing and personal effects, which may  
953 be given instead to the individual's patient's guardian,  
954 guardian advocate, or representative. As soon as practicable  
955 after an emergency transfer ~~of a patient~~, the individual's  
956 ~~patient's~~ clothing and personal effects shall be transferred to  
957 the individual's patient's new location, together with a copy of

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958 the inventory and any amendments, unless an alternate plan is  
959 approved by the individual patient, if he or she is able, and by  
960 his or her ~~the patient's~~ guardian, guardian advocate, or  
961 representative.

962 (7) VOTING IN PUBLIC ELECTIONS.—An individual held for  
963 examination or admitted for mental health treatment ~~A patient~~  
964 who is eligible to vote ~~according to the laws of the state~~ has  
965 the right to vote in the primary and general elections. The  
966 department shall establish rules to enable such individuals  
967 ~~patients~~ to obtain voter registration forms, applications for  
968 absentee ballots, and absentee ballots.

969 (8) HABEAS CORPUS.—

970 (a) At any time, and without notice, an individual ~~a person~~  
971 held for examination in a receiving or treatment facility, or a  
972 relative, friend, guardian, guardian advocate, representative,  
973 or attorney, or the department, on behalf of such individual  
974 ~~person~~, may petition for a writ of habeas corpus to question the  
975 cause and legality of such detention and request that the court  
976 order a return to the writ in accordance with chapter 79. Each  
977 individual patient held in a facility shall receive a written  
978 notice of the right to petition for a writ of habeas corpus.

979 (b) At any time, and without notice, an individual admitted  
980 for mental health treatment ~~a person who is a patient~~ in a  
981 receiving or treatment facility, or a relative, friend,  
982 guardian, guardian advocate, representative, or attorney, or the  
983 department, on behalf of such individual person, may file a  
984 petition in the circuit court in the county where the individual  
985 ~~patient~~ is being held alleging that he or she ~~the patient~~ is  
986 being unjustly denied a right or privilege granted herein or

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987 that a procedure authorized herein is being abused. Upon the  
 988 filing of such a petition, the court may ~~shall have the~~  
 989 ~~authority to~~ conduct a judicial inquiry and ~~to~~ issue an any  
 990 order ~~needed~~ to correct an abuse of the provisions of this part.

991 (c) The administrator of any receiving or treatment  
 992 facility receiving a petition under this subsection shall file  
 993 the petition with the clerk of the court on the next court  
 994 working day.

995 (d) A ~~No~~ fee may not ~~shall~~ be charged for ~~the~~ filing ~~of~~ a  
 996 petition under this subsection.

997 (9) VIOLATIONS.—The department shall report to the Agency  
 998 for Health Care Administration any violation of the rights or  
 999 privileges of individuals ~~patients~~, or of any procedures  
 1000 provided under this part, by any facility or professional  
 1001 licensed or regulated by the agency. The agency may ~~is~~  
 1002 ~~authorized to~~ impose any sanction authorized for violation of  
 1003 this part, based solely on the investigation and findings of the  
 1004 department.

1005 (10) LIABILITY FOR VIOLATIONS.—Any person who violates or  
 1006 abuses the any rights or privileges of individuals held for  
 1007 examination or admitted for mental health treatment ~~patients~~  
 1008 provided under ~~by~~ this part is liable for damages as determined  
 1009 by law. Any person who acts reasonably, in good faith, and  
 1010 without negligence in compliance with ~~the provisions of this~~  
 1011 part is immune from civil or criminal liability for his or her  
 1012 actions in connection with the preparation or execution of  
 1013 petitions, applications, certificates, reports, or other  
 1014 documents initiating admission to a facility or the  
 1015 apprehension, detention, transportation, examination, admission,

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1016 diagnosis, treatment, or discharge of an individual ~~a patient~~ to  
1017 or from a facility. ~~However, this section does not relieve any~~  
1018 ~~person from liability if such person commits negligence.~~

1019 (11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE  
1020 PLANNING.—An individual held for examination or admitted for  
1021 mental health treatment ~~The patient~~ shall have the opportunity  
1022 to participate in treatment and discharge planning and shall be  
1023 notified in writing of his or her right, upon discharge from the  
1024 facility, to seek treatment from the professional or agency of  
1025 the individual's ~~patient's~~ choice.

1026 (12) ADVANCE DIRECTIVES.—All receiving and treatment  
1027 facilities and other service providers shall provide information  
1028 concerning advance directives, and assist individuals who are  
1029 competent and willing to complete mental health advance  
1030 directives. Receiving and treatment facilities and service  
1031 providers must honor the advance directive of an individual  
1032 admitted to or served by the facility or provider.

1033 (13) ~~(12)~~ POSTING OF NOTICE OF RIGHTS ~~OF PATIENTS~~.—Each  
1034 facility shall post a notice, which lists and describes in  
1035 ~~listing and describing, in the~~ language and terminology that the  
1036 individual ~~persons to whom the notice is addressed~~ can  
1037 understand, the rights provided in this section. This notice  
1038 must ~~shall~~ include a statement that provisions of the federal  
1039 Americans with Disabilities Act apply and the name and telephone  
1040 number of a person to contact for further information. The ~~This~~  
1041 notice must ~~shall~~ be posted in a place readily accessible to  
1042 ~~patients~~ and in a format easily seen by the individuals served  
1043 ~~patients~~. The ~~This~~ notice must ~~shall~~ include the telephone  
1044 numbers of the Florida local advocacy council and Advocacy

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1045 Center for Persons with Disabilities, Inc.

1046 Section 9. Subsections (1), (2), (3), and (4) of section  
1047 394.4593, Florida Statutes, are amended to read:

1048 394.4593 Sexual misconduct prohibited; reporting required;  
1049 penalties.—

1050 (1) As used in this section, the term:

1051 (a) "Employee" includes any paid staff member, volunteer,  
1052 or intern of the department; any person under contract with the  
1053 department; and any person providing care or support to an  
1054 individual ~~a client~~ on behalf of the department or its service  
1055 providers.

1056 (b) "Sexual activity" means:

1057 1. Fondling the genital area, groin, inner thighs,  
1058 buttocks, or breasts of an individual ~~a person~~.

1059 2. The oral, anal, or vaginal penetration by or union with  
1060 the sexual organ of another or the anal or vaginal penetration  
1061 of another by any other object.

1062 3. Intentionally touching in a lewd or lascivious manner  
1063 the breasts, genitals, the genital area, or buttocks, or the  
1064 clothing covering them, of an individual ~~a person~~, or forcing or  
1065 enticing an individual ~~a person~~ to touch the perpetrator.

1066 4. Intentionally masturbating in the presence of another  
1067 person.

1068 5. Intentionally exposing the genitals in a lewd or  
1069 lascivious manner in the presence of another individual ~~person~~.

1070 6. Intentionally committing any other sexual act that does  
1071 not involve actual physical or sexual contact with another  
1072 individual ~~the victim~~, including, but not limited to,  
1073 sadomasochistic abuse, sexual bestiality, or the simulation of

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1074 any act involving sexual activity in the presence of the  
1075 individual ~~a victim~~.

1076 (c) "Sexual misconduct" means any sexual activity between  
1077 an employee and an individual held for examination or admitted  
1078 for mental health treatment ~~a patient~~, regardless of the consent  
1079 of that individual ~~the patient~~. The term does not include an act  
1080 done for a bona fide medical purpose or an internal search  
1081 conducted in the lawful performance of duty by an employee.

1082 (2) An employee who engages in sexual misconduct with an  
1083 individual ~~a patient~~ who:

1084 (a) Is in the custody of the department; or

1085 (b) Resides in a receiving facility or a treatment  
1086 facility, as those terms are defined in s. 394.455,

1087  
1088 commits a felony of the second degree, punishable as provided in  
1089 s. 775.082, s. 775.083, or s. 775.084. An employee may be found  
1090 guilty of violating this subsection without having committed the  
1091 crime of sexual battery.

1092 (3) The consent of an individual held for examination or  
1093 admitted for treatment ~~the patient~~ to the sexual activity is not  
1094 a defense to prosecution under this section.

1095 (4) This section does not apply to an employee who:

1096 (a) Is legally married to the individual ~~patient~~; or

1097 (b) Has no reason to believe that the person with whom the  
1098 employee engaged in sexual misconduct is an individual ~~a patient~~  
1099 receiving services as described in subsection (2).

1100 Section 10. Section 394.4595, Florida Statutes, is amended  
1101 to read:

1102 394.4595 Florida statewide and local advocacy council

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1103 ~~councils; access to patients and records.~~ Any facility  
1104 designated by the department as a receiving or treatment  
1105 facility must allow access to any individual held for  
1106 examination or admitted for mental health treatment ~~patient~~ and  
1107 his or her ~~the~~ clinical and legal records ~~of any patient~~  
1108 ~~admitted pursuant to the provisions of this act~~ by members of  
1109 the Florida statewide and local advocacy councils.

1110 Section 11. Section 394.4597, Florida Statutes, is amended  
1111 to read:

1112 394.4597 Persons to be notified; appointment of a patient's  
1113 representative.—

1114 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual  
1115 ~~a patient~~ is voluntarily admitted to a receiving or treatment  
1116 facility, the identity and contact information of the ~~a~~ person  
1117 to be notified in case of an emergency shall be entered in the  
1118 ~~patient's~~ clinical record.

1119 (2) INVOLUNTARY ADMISSION PATIENTS.—

1120 ~~(a)~~ At the time an individual ~~a patient~~ is admitted to a  
1121 facility for involuntary examination or placement, or when a  
1122 petition for involuntary placement is filed, the names,  
1123 addresses, and telephone numbers of the individual's ~~patient's~~  
1124 guardian or guardian advocate, or representative if he or she  
1125 ~~the patient~~ has no guardian or guardian advocate, and ~~the~~  
1126 ~~patient's~~ attorney shall be entered in the ~~patient's~~ clinical  
1127 record.

1128 ~~(a)(b)~~ If the individual ~~patient~~ has no guardian or  
1129 guardian advocate, he or she ~~the patient~~ shall be asked to  
1130 designate a representative. If the individual ~~patient~~ is unable  
1131 or unwilling to designate a representative, the facility shall

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1132 select a representative.

1133 ~~(b)-(e)~~ The individual patient shall be consulted with  
1134 regard to the selection of a representative by the receiving or  
1135 treatment facility and may ~~shall have authority to~~ request that  
1136 the any such representative be replaced.

1137 ~~(c)-(d)~~ If ~~When~~ the receiving or treatment facility selects  
1138 a representative, first preference shall be given to a health  
1139 care surrogate, if one has been previously selected ~~by the~~  
1140 ~~patient~~. If the individual patient has not previously selected a  
1141 health care surrogate, the selection, except for good cause  
1142 documented in the ~~patient's~~ clinical record, shall be made from  
1143 the following list in the order of listing:

- 1144 1. The individual's ~~patient's~~ spouse.
- 1145 2. An adult child of the individual patient.
- 1146 3. A parent of the individual patient.
- 1147 4. The adult next of kin of the individual patient.
- 1148 5. An adult friend of the individual patient.
- 1149 6. The appropriate Florida local advocacy council as  
1150 provided in s. 402.166.

1151 ~~(d)-(e)~~ A licensed professional providing services to the  
1152 individual patient under this part, an employee of a facility  
1153 providing direct services to the individual patient under this  
1154 part, a department employee, a person providing other  
1155 substantial services to the individual patient in a professional  
1156 or business capacity, or a creditor of the individual may  
1157 ~~patient shall~~ not be appointed as the ~~patient's~~ representative.

1158 (e) The representative selected by the individual or  
1159 designated by the facility has the right, authority, and  
1160 responsibility to:



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- 1161       1. Receive notice of the individual's admission;  
1162       2. Receive notice of proceedings affecting the individual;  
1163       3. Have immediate access to the individual unless such  
1164 access is documented to be detrimental to the individual;  
1165       4. Receive notice of any restriction of the individual's  
1166 right to communicate or receive visitors;  
1167       5. Receive a copy of the inventory of personal effects upon  
1168 the individual's admission and to request an amendment to the  
1169 inventory at any time;  
1170       6. Receive disposition of the individual's clothing and  
1171 personal effects if not returned to the individual, or to  
1172 approve an alternate plan;  
1173       7. Petition on behalf of the individual for a writ of  
1174 habeas corpus to question the cause and legality of the  
1175 individual's detention or to allege that the individual is being  
1176 unjustly denied a right or privilege granted herein, or that a  
1177 procedure authorized herein is being abused;  
1178       8. Apply for a change of venue for the individual's  
1179 involuntary placement hearing for the convenience of the parties  
1180 or witnesses or because of the individual's condition;  
1181       9. Receive written notice of any restriction of the  
1182 individual's right to inspect his or her clinical record;  
1183       10. Receive notice of the release of the individual from a  
1184 receiving facility where an involuntary examination was  
1185 performed;  
1186       11. Receive a copy of any petition for the individual's  
1187 involuntary placement filed with the court; and  
1188       12. Be informed by the court of the individual's right to  
1189 an independent expert evaluation pursuant to involuntary

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1190 placement procedures.

1191 Section 12. Section 394.4598, Florida Statutes, is amended  
1192 to read:

1193 394.4598 Guardian advocate.—

1194 (1) The administrator may petition the court for the  
1195 appointment of a guardian advocate based upon the opinion of a  
1196 psychiatrist that an individual held for examination or admitted  
1197 for mental health treatment ~~the patient~~ is incompetent to  
1198 consent to treatment. If the court finds that the individual ~~a~~  
1199 ~~patient~~ is incompetent to consent to treatment and has not been  
1200 adjudicated incapacitated and a guardian having with the  
1201 authority to consent to mental health treatment has not been  
1202 appointed, it shall appoint a guardian advocate. The individual  
1203 ~~patient~~ has the right to have an attorney represent him or her  
1204 at the hearing. If the individual person is indigent, the court  
1205 shall appoint the office of the public defender to represent him  
1206 or her at the hearing. The individual patient has the right to  
1207 testify, cross-examine witnesses, and present witnesses. The  
1208 proceeding must shall be recorded ~~either~~ electronically or  
1209 stenographically, and testimony shall be ~~provided~~  
1210 One of the professionals authorized to give an opinion in  
1211 support of a petition for involuntary placement, as described in  
1212 s. 394.4655 or s. 394.467, must testify. The A guardian advocate  
1213 must meet the qualifications of a guardian pursuant to ~~contained~~  
1214 ~~in~~ part IV of chapter 744., ~~except that~~ A professional providing  
1215 services to the individual under ~~referred to in~~ this part, an  
1216 employee of the facility providing direct services to the  
1217 individual patient under this part, a departmental employee, a  
1218 facility administrator, or a member of the Florida local

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1219 advocacy council may ~~shall~~ not be appointed. A person who is  
1220 appointed as a guardian advocate must agree to the appointment.

1221 (2) A facility requesting appointment of a guardian  
1222 advocate must, prior to the appointment, provide the prospective  
1223 guardian advocate with information concerning ~~about~~ the duties  
1224 and responsibilities of guardian advocates, including ~~the~~  
1225 information about the ethics of medical decisionmaking. Before  
1226 asking a guardian advocate to give consent to treatment for an  
1227 individual held for examination or admitted for mental health  
1228 treatment a patient, the facility must ~~shall~~ provide ~~to the~~  
1229 ~~guardian advocate~~ sufficient information so that the guardian  
1230 advocate can decide whether to give express and informed consent  
1231 to the treatment, including information that the treatment is  
1232 essential to the care of the individual patient, and that the  
1233 treatment does not present an unreasonable risk of serious,  
1234 hazardous, or irreversible side effects. Before giving consent  
1235 to treatment, the guardian advocate must meet and talk with the  
1236 individual patient and the individual's patient's physician  
1237 face-to-face in person, if ~~at all~~ possible, and by telephone, if  
1238 not. The guardian advocate shall make every effort to make the  
1239 mental health care decision that he or she believes the  
1240 individual would have made under the circumstances if the  
1241 individual were capable of making such decision. The decision of  
1242 the guardian advocate may be reviewed by the court, upon  
1243 petition of the individual's patient's attorney or, ~~the~~  
1244 ~~patient's~~ family, or the facility administrator.

1245 (3) Before ~~Prior to~~ a guardian advocate may exercise  
1246 ~~exercising~~ his or her authority, the guardian advocate must  
1247 ~~shall~~ attend a training course approved by the court. The ~~This~~

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1248 training course, of not less than 4 hours, must include, at  
1249 minimum, information concerning individual ~~about the patient~~  
1250 rights, psychotropic medications, diagnosis of mental illness,  
1251 the ethics of medical decisionmaking, and duties of guardian  
1252 advocates. This training course shall take the place of the  
1253 training required for guardians appointed under ~~pursuant to~~  
1254 chapter 744.

1255 (4) The information provided ~~to be supplied~~ to prospective  
1256 guardian advocates before ~~prior to~~ their appointment and the  
1257 training course for guardian advocates must be developed and  
1258 completed through a course developed by the department and  
1259 approved by the chief judge of the circuit court ~~and taught by a~~  
1260 ~~court-approved organization. Court-approved organizations may~~  
1261 ~~include, but are not limited to, community or junior colleges,~~  
1262 ~~guardianship organizations, and the local bar association or The~~  
1263 ~~Florida Bar.~~ The court may, ~~in its discretion,~~ waive some or all  
1264 of the training requirements for guardian advocates or impose  
1265 additional requirements. The court shall make its decision on a  
1266 case-by-case basis and, in making its decision, shall consider  
1267 the experience and education of the guardian advocate, the  
1268 duties assigned to the guardian advocate, and the needs of the  
1269 individual whom the guardian advocate represents ~~patient~~.

1270 (5) In selecting a guardian advocate, the court shall give  
1271 preference to a health care surrogate, if one has already been  
1272 designated by the individual held for examination or admitted  
1273 for mental health treatment ~~patient~~. If the individual ~~patient~~  
1274 has not previously selected a health care surrogate, except for  
1275 good cause documented in the court record, the selection shall  
1276 be made from the following list in the order of listing:

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- 1277 (a) The individual's ~~patient's~~ spouse.
- 1278 (b) An adult child of the individual ~~patient~~.
- 1279 (c) A parent of the individual ~~patient~~.
- 1280 (d) The adult next of kin of the individual ~~patient~~.
- 1281 (e) An adult friend of the individual ~~patient~~.
- 1282 (f) An adult trained and willing to serve as guardian
- 1283 advocate for the individual ~~patient~~.
- 1284 (6) If a guardian having ~~with the~~ authority to consent to
- 1285 medical treatment has not already been appointed, or if the
- 1286 individual held for examination or admitted for mental health
- 1287 treatment ~~patient~~ has not already designated a health care
- 1288 surrogate, the court may authorize the guardian advocate to
- 1289 consent to medical treatment, as well as mental health
- 1290 treatment. Unless otherwise limited by the court, a guardian
- 1291 advocate that has ~~with~~ authority to consent to medical treatment
- 1292 shall have the same authority to make health care decisions and
- 1293 be subject to the same restrictions as a proxy appointed under
- 1294 part IV of chapter 765. Unless the guardian advocate has sought
- 1295 and received express court approval ~~in proceeding separate from~~
- 1296 ~~the proceeding to determine the competence of the patient to~~
- 1297 ~~consent to medical treatment~~, the guardian advocate may not
- 1298 consent to:
- 1299 (a) Abortion.
- 1300 (b) Sterilization.
- 1301 (c) Electroconvulsive treatment.
- 1302 (d) Psychosurgery.
- 1303 (e) Experimental treatments that have not been approved by
- 1304 a federally approved institutional review board in accordance
- 1305 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

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1306

1307 The court shall ~~must~~ base its decision on evidence that the  
1308 treatment or procedure is essential to the care of the  
1309 individual ~~patient~~ and that the treatment does not present an  
1310 unreasonable risk of serious, hazardous, or irreversible side  
1311 effects. The court shall follow the procedures set forth in  
1312 subsection (1) of this section.

1313 (7) The guardian advocate shall be discharged when the  
1314 individual whom he or she represents ~~patient~~ is discharged from  
1315 an order for involuntary outpatient ~~placement~~ or ~~involuntary~~  
1316 inpatient placement or when the individual ~~patient~~ is  
1317 transferred from involuntary to voluntary status. The court or a  
1318 hearing officer shall consider the competence of the individual  
1319 ~~patient~~ pursuant to subsection (1) and may consider an  
1320 involuntarily placed individual's ~~patient's~~ competence to  
1321 consent to treatment at any hearing. Upon sufficient evidence,  
1322 the court may restore, or the hearing officer may recommend that  
1323 the court restore, the individual's ~~patient's~~ competence. A copy  
1324 of the order restoring competence or the certificate of  
1325 discharge containing the restoration of competence shall be  
1326 provided to the individual ~~patient~~ and the guardian advocate.

1327 Section 13. Section 394.4599, Florida Statutes, is amended  
1328 to read:

1329 394.4599 Notice.—

1330 (1) VOLUNTARY ADMISSION PATIENTS.—Notice of an individual's  
1331 a voluntary ~~patient's~~ admission shall ~~only~~ be given only at the  
1332 individual's request ~~of the patient~~, except that in an  
1333 emergency, notice shall be given as determined by the facility.

1334 (2) INVOLUNTARY ADMISSION PATIENTS.—

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1335 (a) If notice of involuntary admission ~~Whenever notice is~~  
1336 required to be given ~~under this part~~, such notice shall be given  
1337 to the individual admitted patient and his or her ~~the patient's~~  
1338 guardian, guardian advocate, attorney, and representative.

1339 1. If ~~When~~ notice is required to be given to an individual  
1340 ~~a patient~~, it shall be given both orally and in writing, in the  
1341 language and terminology that the individual patient can  
1342 understand, and, if needed, the facility shall provide an  
1343 interpreter for the individual patient.

1344 2. Notice to an individual's ~~a patient's~~ guardian, guardian  
1345 advocate, attorney, and representative shall be given by ~~United~~  
1346 ~~States mail and by~~ registered ~~or certified~~ mail with the  
1347 receipts attached to the ~~patient's~~ clinical record. Hand  
1348 delivery by a facility employee may be used as an alternative,  
1349 with delivery documented in the clinical record. If notice is  
1350 given by a state attorney or an attorney for the department, a  
1351 certificate of service is ~~shall be~~ sufficient to document  
1352 service.

1353 (b) A receiving facility shall give prompt notice of the  
1354 whereabouts of an individual ~~a patient~~ who is being  
1355 involuntarily held for examination to the individual's guardian  
1356 or representative, by telephone or in person within 24 hours  
1357 after the individual's patient's arrival at the facility, ~~unless~~  
1358 ~~the patient requests that no notification be made~~. Contact  
1359 attempts must ~~shall~~ be documented in the individual's patient's  
1360 clinical record and shall begin as soon as reasonably possible  
1361 after the individual's patient's arrival. Notice that an  
1362 individual is being involuntarily held must ~~a patient is being~~  
1363 ~~admitted as an involuntary patient~~ shall be given to the Florida

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1364 local advocacy council by ~~no later than~~ the next working day  
1365 after the individual patient is admitted.

1366 (c) The written notice of the filing of the petition for  
1367 the involuntary placement of an individual being held must  
1368 include ~~contain~~ the following:

1369 1. Notice that the petition has been filed with the circuit  
1370 court in the county in which the individual patient is  
1371 hospitalized and the court's address ~~of such court~~.

1372 2. Notice that the office of the public defender has been  
1373 appointed to represent the individual patient in the proceeding,  
1374 if the individual patient is not otherwise represented by  
1375 counsel.

1376 3. The date, time, and place of the hearing and the name of  
1377 each examining expert and every other person expected to testify  
1378 in support of continued detention.

1379 4. Notice that the individual patient, the individual's  
1380 patient's guardian or representative, or the administrator may  
1381 apply for a change of venue for the convenience of the parties  
1382 or witnesses or because of the individual's condition ~~of the~~  
1383 patient.

1384 5. Notice that the individual patient is entitled to an  
1385 independent expert examination and, if the individual patient  
1386 cannot afford such ~~an~~ examination, that the court will provide  
1387 for one.

1388 (d) A treatment facility shall provide notice of an  
1389 individual's ~~a patient's~~ involuntary admission on the next  
1390 regular working day after the individual's patient's arrival at  
1391 the facility.

1392 (e) If an individual ~~When a patient~~ is to be transferred



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1393 from one facility to another, notice shall be given by the  
1394 facility where the individual patient is located before ~~prior to~~  
1395 the transfer.

1396 Section 14. Section 394.460, Florida Statutes, is repealed.

1397 Section 15. Section 394.461, Florida Statutes, is amended  
1398 to read:

1399 394.461 Designation of receiving and treatment facilities.-  
1400 The department may ~~is authorized to~~ designate and monitor  
1401 receiving facilities and treatment facilities and may suspend or  
1402 withdraw such designation for failure to comply with this part  
1403 and rules adopted under this part. Only governmental facilities,  
1404 and others ~~Unless designated by the department, may facilities~~  
1405 ~~are not permitted to~~ hold or treat individuals on an involuntary  
1406 basis ~~patients under this part.~~

1407 (1) RECEIVING FACILITY.-The department may designate any  
1408 ~~community facility as a receiving facility. Any other~~ facility  
1409 within the state, including a private facility, as a receiving  
1410 facility if ~~or a federal facility, may be so designated by the~~  
1411 ~~department, provided that~~ such designation is agreed to by the  
1412 governing body or authority of the facility.

1413 (2) TREATMENT FACILITY.-The department may designate any  
1414 state-owned, state-operated, or state-supported facility as a  
1415 state treatment facility. An individual may ~~A civil patient~~  
1416 ~~shall~~ not be admitted to a civil state treatment facility  
1417 without previously undergoing a transfer evaluation. Before a  
1418 court hearing for involuntary placement in a state treatment  
1419 facility, the court shall receive and consider the information  
1420 documented in the transfer evaluation. Any other facility,  
1421 including a private facility or a federal facility, may be

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1422 designated as a treatment facility by the department if,  
 1423 ~~provided that~~ such designation is agreed to by the appropriate  
 1424 governing body or authority of the facility.

1425 (3) GOVERNMENTAL FACILITIES.—Governmental facilities may  
 1426 provide voluntary and involuntary mental health examination and  
 1427 treatment for individuals in their care and custody and must  
 1428 protect the rights of these individuals, pursuant to this part.

1429 (4)~~(3)~~ PRIVATE FACILITIES.—Private facilities designated as  
 1430 receiving and treatment facilities by the department may provide  
 1431 examination and treatment of individuals on an ~~of~~ involuntary or  
 1432 ~~patients, as well as~~ voluntary basis ~~patients, and are~~ subject  
 1433 to ~~all~~ the provisions of this part.

1434 (5)~~(4)~~ REPORT.—

1435 (a) A facility designated as a ~~public~~ receiving or  
 1436 treatment facility under this section shall annually report ~~to~~  
 1437 ~~the department on an annual basis~~ the following data to the  
 1438 department, unless such ~~these~~ data are currently being submitted  
 1439 to the Agency for Health Care Administration:

- 1440 1. Number of licensed beds.
- 1441 2. Number of contract days.
- 1442 3. Number of admissions by payor class and diagnoses.
- 1443 4. Number of bed days by payor class.
- 1444 5. Average length of stay by payor class.
- 1445 6. Total revenues by payor class.

1446 (b) For the purposes of this subsection, "payor class"  
 1447 means Medicare, Medicare HMO, Medicaid, Medicaid HMO, private-  
 1448 pay health insurance, private-pay health maintenance  
 1449 organization, private preferred provider organization, the  
 1450 Department of Children and Family Services, other government

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1451 programs, self-pay individuals ~~patients~~, and charity care.

1452 (c) The data required under this subsection shall be  
1453 submitted to the department within ~~no later than~~ 90 days after  
1454 ~~following~~ the end of the facility's fiscal year. ~~A facility~~  
1455 ~~designated as a public receiving or treatment facility shall~~  
1456 ~~submit its initial report for the 6-month period ending June 30,~~  
1457 ~~2008.~~

1458 (d) The department shall issue an annual report based on  
1459 the data collected ~~required~~ pursuant to this subsection, which  
1460 must. ~~The report shall include individual facilities'~~ data by  
1461 facility, as well as statewide totals. The report shall be  
1462 submitted to the Governor, the President of the Senate, and the  
1463 Speaker of the House of Representatives.

1464 (6) ~~(5)~~ RULES.—The department shall adopt rules relating to:

1465 (a) Procedures and criteria for receiving and evaluating  
1466 ~~facility~~ applications for designation as a receiving or  
1467 treatment facility, which may include an onsite facility  
1468 inspection and evaluation of an applicant's licensing status and  
1469 performance history, as well as consideration of local service  
1470 needs.

1471 (b) Minimum standards consistent with this part that a  
1472 facility must meet and maintain in order to be designated as a  
1473 receiving or treatment facility, and procedures for monitoring  
1474 ~~continued~~ adherence to such standards.

1475 (c) Procedures for receiving complaints against a  
1476 designated facility and for initiating inspections and  
1477 investigations of facilities alleged to have violated the  
1478 provisions of this part or rules adopted under this part.

1479 (d) Procedures and criteria for the suspension or

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1480 withdrawal of designation as a receiving or treatment facility.

1481 Section 16. Section 394.4611, Florida Statutes, is created  
1482 to read:

1483 394.4611 Integrated adult mental health crisis  
1484 stabilization unit and addictions receiving facility services.-

1485 (1) Beginning July 1, 2009, the Agency for Health Care  
1486 Administration, in consultation with the department, may license  
1487 facilities that integrate services provided in an adult mental  
1488 health crisis stabilization unit with services provided in an  
1489 adult addictions receiving facility. The services provided shall  
1490 be designated as integrated adult mental health crisis  
1491 stabilization unit and addictions receiving facility services,  
1492 and the facility providing these services must be licensed as an  
1493 adult crisis stabilization unit by the agency and must meet the  
1494 license requirements for crisis stabilization units that provide  
1495 these integrated services.

1496 (2) An integrated adult mental health crisis stabilization  
1497 unit and addictions receiving facility may provide services to  
1498 adults 18 years of age or older who:

1499 (a) Meet the requirements for voluntary admission for  
1500 mental health treatment under s. 394.4625;

1501 (b) Meet the criteria for involuntary examination for  
1502 mental illness under s. 394.463;

1503 (c) Qualify for voluntary admission for substance abuse  
1504 treatment under s. 397.601; or

1505 (d) Meet the criteria for involuntary admission for  
1506 substance abuse impairment under s. 397.675.

1507 (3) In consultation with the agency, the department shall  
1508 adopt by rule minimum standards for eligibility; clinical

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1509 procedures; staffing requirements; operational, administrative,  
1510 and financing requirements; and procedures for the investigation  
1511 of complaints. Standards for substance abuse treatment services  
1512 must meet or exceed current standards for addictions receiving  
1513 facilities as adopted by rule.

1514 Section 17. Section 394.4615, Florida Statutes, is amended  
1515 to read:

1516 394.4615 Clinical records; confidentiality.—

1517 (1) A clinical record shall be maintained for each  
1518 individual held for examination or admitted for mental health  
1519 treatment patient. The record must ~~shall~~ include data pertaining  
1520 to admission and such other information as may be required under  
1521 rules of the department. A clinical record is confidential and  
1522 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by the  
1523 express and informed consent of the individual, ~~by the patient~~  
1524 or by his or her ~~the patient's~~ guardian or guardian advocate or,  
1525 ~~if the patient is~~ deceased, by his or her ~~the patient's~~ personal  
1526 representative or the family member who stands next in line of  
1527 intestate succession, the confidential status of the clinical  
1528 record is ~~shall~~ not ~~be~~ lost by ~~either~~ authorized or unauthorized  
1529 disclosure to any person, organization, or agency.

1530 (2) The clinical record of an individual held for  
1531 examination or admitted for mental health treatment shall be  
1532 released if ~~when~~:

1533 (a) The individual ~~patient~~ or the individual's ~~patient's~~  
1534 guardian or guardian advocate authorizes the release. The  
1535 guardian or guardian advocate shall be provided access to the  
1536 appropriate clinical records ~~of the patient~~. The individual  
1537 ~~patient~~ or the individual's ~~patient's~~ guardian or guardian

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1538 advocate may authorize the release of information and clinical  
1539 records to appropriate persons to ensure the continuity of the  
1540 individual's ~~patient's~~ health care or mental health care.

1541 (b) The individual ~~patient~~ is represented by counsel and  
1542 the records are needed by such ~~the patient's~~ counsel for  
1543 adequate representation.

1544 (c) The court orders such release. In determining whether  
1545 there is good cause for disclosure, the court shall weigh the  
1546 need for the information to be disclosed against the possible  
1547 harm of disclosure to the individual ~~person~~ to whom such  
1548 information pertains.

1549 (d) The individual ~~patient~~ is committed to, or ~~is to be~~  
1550 returned to, the Department of Corrections ~~from the Department~~  
1551 ~~of Children and Family Services~~, and the Department of  
1552 Corrections requests such records. The ~~These~~ records shall be  
1553 furnished without charge to the Department of Corrections.

1554 (3) Information from the clinical record may be released if  
1555 ~~in the following circumstances:~~

1556 (a) The individual ~~When a patient~~ has declared an intention  
1557 to harm other persons. If ~~When~~ such declaration has been made,  
1558 the administrator may authorize the release of sufficient  
1559 information to provide adequate warning to the person threatened  
1560 with harm ~~by the patient~~.

1561 (b) ~~When~~ The administrator of the facility or secretary of  
1562 the department deems that release to a qualified researcher as  
1563 defined in administrative rule, an aftercare treatment provider,  
1564 or an employee or agent of the department is necessary for  
1565 treatment of the individual ~~patient~~, maintenance of adequate  
1566 records, compilation of treatment data, aftercare planning, or

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1567 evaluation of programs.

1568 (c) Necessary for ~~the purpose of~~ determining whether an  
1569 individual ~~a person~~ meets the criteria for involuntary  
1570 outpatient placement or for preparing the proposed treatment  
1571 plan pursuant to s. 394.4655, the clinical record may be  
1572 released to the state attorney, the public defender or the  
1573 individual's ~~patient's~~ private legal counsel, the court, and to  
1574 the appropriate mental health professionals, including the  
1575 service provider identified in s. 394.4655(6)(b)  
1576 ~~394.4655(6)(b)2.~~, in accordance with state and federal law.

1577 (4) Information from clinical records may be used for  
1578 statistical and research purposes if the information is  
1579 abstracted in such a way as to protect the identity of  
1580 individuals served and meets department policy.

1581 (5) Information from clinical records may be used by the  
1582 Agency for Health Care Administration, the department, and the  
1583 Florida advocacy councils for the purpose of monitoring facility  
1584 activity and complaints concerning facilities.

1585 (6) Clinical records relating to a Medicaid recipient shall  
1586 be furnished to the Medicaid Fraud Control Unit in the  
1587 Department of Legal Affairs, upon request.

1588 (7) Any person, agency, or entity receiving information  
1589 pursuant to this section shall maintain such information as  
1590 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

1591 (8) Any facility or private mental health practitioner who  
1592 acts in good faith in releasing information pursuant to this  
1593 section is not subject to civil or criminal liability for such  
1594 release.

1595 (9) ~~Nothing in~~ This section does not ~~is intended to~~

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1596 prohibit the parent or next of kin of an individual ~~a person~~ who  
 1597 is held for examination ~~in~~ or admitted for ~~treated under a~~  
 1598 mental health treatment facility or program from requesting and  
 1599 receiving information limited to a summary of that individual's  
 1600 ~~person's~~ treatment plan and current physical and mental  
 1601 condition. Release of such information must ~~shall~~ be in  
 1602 accordance with the code of ethics of the profession involved.

1603 (10) An individual who is 18 years of age or older ~~Patients~~  
 1604 shall have reasonable access to his or her ~~their~~ clinical  
 1605 records, unless such access is determined by the individual's  
 1606 ~~patient's~~ physician to be harmful to the individual ~~patient~~. If  
 1607 the individual's ~~patient's~~ right to inspect his or her clinical  
 1608 record is restricted by the facility, written notice of the ~~such~~  
 1609 restriction must ~~shall~~ be given to the individual ~~patient~~ and to  
 1610 his or her ~~the patient's~~ guardian, guardian advocate, attorney,  
 1611 and representative. In addition, the restriction must ~~shall~~ be  
 1612 recorded in the clinical record, together with the reasons for  
 1613 it. The restriction expires ~~of a patient's right to inspect his~~  
 1614 ~~or her clinical record shall expire~~ after 7 days but may be  
 1615 renewed, after review, for subsequent 7-day periods.

1616 (11) Any person who fraudulently alters, defaces, or  
 1617 falsifies the clinical record of an individual ~~any person~~  
 1618 receiving mental health services in a facility subject to this  
 1619 part, or causes or procures any of these offenses to be  
 1620 committed, commits a misdemeanor of the second degree,  
 1621 punishable as provided in s. 775.082 or s. 775.083.

1622 Section 18. Section 394.462, Florida Statutes, is amended  
 1623 to read:

1624 394.462 Transportation.—



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1625 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

1626 (a) Each county shall designate a single law enforcement  
1627 agency within the county, or portions thereof, to take an  
1628 individual ~~a person~~ into custody upon the entry of an ex parte  
1629 order or the execution of a certificate for involuntary  
1630 examination by an authorized professional and to transport that  
1631 individual ~~person~~ to the nearest receiving facility, excluding a  
1632 governmental facility, for examination. A law enforcement  
1633 officer acting in good faith pursuant to this part may not be  
1634 held criminally or civilly liable for false imprisonment. The  
1635 designated law enforcement agency may decline to transport the  
1636 individual ~~person~~ to a receiving facility only if:

1637 1. The county or jurisdiction designated by the county has  
1638 contracted ~~on an annual basis~~ with an emergency medical  
1639 transport service or private transport company for  
1640 transportation of individuals ~~persons~~ to receiving facilities  
1641 ~~pursuant to this section~~ at the sole cost of the county. ~~;~~ and

1642 2. The law enforcement agency and the emergency medical  
1643 transport service or private transport company agree that the  
1644 continued presence of law enforcement personnel is not necessary  
1645 for the safety of the individual being transported ~~person~~ or  
1646 others.

1647 3. The jurisdiction designated by the county seeks ~~may seek~~  
1648 reimbursement for transportation expenses. The individual being  
1649 transported is ~~party~~ responsible for payment ~~for such~~  
1650 ~~transportation is the person receiving the transportation.~~ The  
1651 county shall seek reimbursement from the following sources in  
1652 the following order:

1653 a. From an insurance company, health care corporation, or

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1654 other source, if the individual being transported ~~person~~  
1655 ~~receiving the transportation~~ is covered by an insurance policy  
1656 or subscribes to a health care corporation or other source for  
1657 payment of such expenses.

1658 b. From the individual being transported ~~person receiving~~  
1659 ~~the transportation~~.

1660 c. From a financial settlement for medical care, treatment,  
1661 hospitalization, or transportation payable or accruing to the  
1662 injured party.

1663 (b) Any company that transports an individual ~~a patient~~  
1664 pursuant to this subsection is considered an independent  
1665 contractor and is solely liable for the safe and dignified  
1666 transportation of the individual ~~patient~~. Such company must be  
1667 insured and maintain at least ~~provide no less than~~ \$100,000 in  
1668 liability insurance with respect to such ~~the~~ transportation ~~of~~  
1669 ~~patients~~.

1670 (c) Any company that contracts with a governing board of a  
1671 county to transport individuals for examination or treatment  
1672 must ~~patients shall~~ comply with the applicable rules of the  
1673 department to ensure their ~~the~~ safety and dignity ~~of the~~  
1674 ~~patients~~.

1675 (d) ~~If~~ When a law enforcement officer takes custody of an  
1676 individual ~~a person~~ pursuant to this part, the officer may  
1677 request assistance from emergency medical personnel if such  
1678 assistance is needed for the safety of the officer or the  
1679 individual ~~person~~ in custody.

1680 (e) ~~If~~ When a member of a mental health overlay program or  
1681 a mobile crisis response service is a professional authorized to  
1682 initiate an involuntary examination pursuant to s. 394.463 ~~and~~

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1683 ~~that professional~~ evaluates an individual ~~a person~~ and  
1684 determines that transportation to a receiving facility is  
1685 needed, the service, ~~at its discretion,~~ may transport the  
1686 individual ~~person~~ to the facility or may call on the law  
1687 enforcement agency or other transportation arrangement best  
1688 suited to the needs of the individual being transported ~~patient~~.

1689 (f) If a ~~When any~~ law enforcement officer has custody of an  
1690 individual ~~a person~~ based on ~~either~~ noncriminal or minor  
1691 criminal behavior that meets the statutory guidelines for  
1692 involuntary examination under this part, the law enforcement  
1693 officer shall transport the individual ~~person~~ to the nearest  
1694 receiving facility for examination.

1695 (g) If a ~~When any~~ law enforcement officer has arrested an  
1696 individual ~~a person~~ for a felony and it appears that the  
1697 individual ~~person~~ meets the ~~statutory~~ guidelines for involuntary  
1698 examination or placement under this part, the individual ~~such~~  
1699 ~~person~~ shall first be processed in the same manner as any other  
1700 criminal suspect. The law enforcement agency shall thereafter  
1701 immediately notify the nearest public receiving facility, which  
1702 shall be responsible for promptly arranging for the examination  
1703 and treatment of the individual ~~person~~. A receiving facility is  
1704 not required to admit an individual ~~a person~~ charged with a  
1705 crime for whom the facility determines and documents that it is  
1706 unable to provide adequate security, but shall provide mental  
1707 health examination and treatment to the individual ~~person~~ where  
1708 he or she is held.

1709 (h) If the appropriate law enforcement officer believes  
1710 that an individual ~~a person~~ has an emergency medical condition  
1711 as defined in s. 395.002, the individual ~~person~~ may be first

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1712 transported to a hospital for emergency medical treatment,  
1713 regardless of whether the hospital is a designated receiving  
1714 facility.

1715 (i) The costs of transportation, evaluation,  
1716 hospitalization, and treatment incurred under this subsection by  
1717 individuals ~~persons~~ who have been arrested for violations of any  
1718 state law or county or municipal ordinance may be recovered as  
1719 provided in s. 901.35.

1720 (j) The nearest receiving facility must accept individuals  
1721 ~~persons~~ brought by law enforcement officers for involuntary  
1722 examination.

1723 (k) ~~If~~ When a jurisdiction has entered into a contract with  
1724 an emergency medical transport service or a private transport  
1725 company for transportation of individuals ~~persons~~ to receiving  
1726 facilities, such service or company shall be given preference  
1727 for transportation of individuals ~~persons~~ from nursing homes,  
1728 assisted living facilities, adult day care centers, or adult  
1729 family-care homes, unless the behavior of the individual ~~person~~  
1730 being transported is such that transportation by a law  
1731 enforcement officer is necessary.

1732 (l) ~~Nothing in~~ This section does not ~~shall be construed to~~  
1733 limit emergency examination and treatment of incapacitated  
1734 individuals ~~persons~~ provided in accordance with ~~the provisions~~  
1735 ~~of~~ s. 401.445.

1736 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

1737 (a) If ~~neither~~ the individual held for examination or  
1738 admitted for mental health treatment or patient ~~nor~~ any person  
1739 legally obligated or responsible for the individual ~~patient~~ is  
1740 not able to pay for the expense of transporting an individual a

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1741 ~~voluntary or involuntary patient~~ to a treatment facility, the  
 1742 governing board of the county in which the individual ~~patient~~ is  
 1743 hospitalized shall arrange for the ~~such~~ required transportation  
 1744 and shall ensure the safe and dignified transportation of the  
 1745 individual ~~patient~~. The governing board of each county may ~~is~~  
 1746 ~~authorized to~~ contract with private transport companies for such  
 1747 ~~the transportation of such patients to and from a treatment~~  
 1748 ~~facility.~~

1749 (b) Any company that transports an individual ~~a patient~~  
 1750 pursuant to this subsection is considered an independent  
 1751 contractor and is solely liable for the safe and dignified  
 1752 transportation of the individual ~~patient~~. Such company must be  
 1753 insured and provide at least no less than \$100,000 in liability  
 1754 insurance for such ~~with respect to the~~ transportation ~~of~~  
 1755 ~~patients.~~

1756 (c) Any company that contracts with the governing board of  
 1757 a county to transport individuals ~~must patients shall~~ comply  
 1758 with the applicable rules of the department to ensure the safety  
 1759 and dignity of the individuals transported ~~patients.~~

1760 (d) County or municipal law enforcement and correctional  
 1761 personnel and equipment may ~~shall~~ not be used to transport  
 1762 individuals ~~patients~~ adjudicated incapacitated or found by the  
 1763 court to meet the criteria for involuntary placement under  
 1764 ~~pursuant to~~ s. 394.467, except in small rural counties where  
 1765 there are no cost-efficient alternatives.

1766 (3) EXCEPTIONS.—An exception to the requirements of this  
 1767 section may be granted by the secretary ~~of the department~~ for  
 1768 the purposes of improving service coordination or better meeting  
 1769 the special needs of individuals. A proposal for an exception

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1770 shall ~~must~~ be submitted to the secretary by the circuit district  
1771 administrator after being approved by the governing board of  
1772 each affected county boards of any affected counties, ~~prior to~~  
1773 ~~submission to the secretary.~~

1774 (a) A proposal for an exception must identify the specific  
1775 provision from which an exception is requested, ~~and~~ describe how  
1776 the proposal will be implemented by participating law  
1777 enforcement agencies and transportation authorities, ~~and~~ and  
1778 provide a plan for the coordination of services such as case  
1779 management.

1780 (b) An ~~The~~ exception may be granted only for:

1781 1. An arrangement centralizing and improving the provision  
1782 of services within a circuit district, which may include an  
1783 exception to the requirement for transportation to the nearest  
1784 receiving facility;

1785 2. An arrangement whereby ~~by which~~ a facility may provide,  
1786 in addition to required psychiatric services, an environment and  
1787 services that ~~which~~ are uniquely tailored to the needs of an  
1788 identified group of individuals who have ~~persons with~~ special  
1789 needs, ~~such as~~ persons who have ~~with~~ hearing impairments or  
1790 visual impairments, or elderly persons who have ~~with~~ physical  
1791 frailties; or

1792 3. A specialized transportation system that provides an  
1793 efficient and humane method of transporting individuals ~~patients~~  
1794 to receiving facilities, among receiving facilities, and to  
1795 treatment facilities.

1796 (c) Any exception approved pursuant to this subsection must  
1797 ~~shall~~ be reviewed and approved every 5 years by the secretary.

1798 Section 19. Section 394.4625, Florida Statutes, is amended

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1799 to read:

1800 394.4625 Voluntary admissions.—

1801 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE  
1802 PATIENTS.—

1803 (a) A facility may receive for observation, diagnosis, or  
1804 treatment any individual ~~person~~ 18 years of age or older who  
1805 makes ~~making~~ application by express and informed consent for  
1806 admission or any minor ~~person age 17 or under~~ for whom such  
1807 application is made by his or her guardian.

1808 1. If found to show evidence of mental illness, to be  
1809 competent to provide express and informed consent, and to be  
1810 suitable for treatment, an individual ~~such person~~ 18 years of  
1811 age or older may be admitted to the facility.

1812 2. A minor ~~person age 17 or under~~ may be admitted only if  
1813 the minor's assent has been verified through an independent  
1814 clinical assessment conducted by a professional licensed under  
1815 chapter 458, chapter 459, or chapter 490. Assent must be  
1816 obtained in conjunction with consent from the minor's guardian.  
1817 The minor's assent means that the minor has affirmatively agreed  
1818 to stay at the facility for examination and mental health  
1819 treatment. Mere failure to object, absent affirmative agreement,  
1820 is not assent. In determining if the minor assents, the  
1821 examining professional must first provide the minor with an  
1822 explanation of why the minor will be examined and treated, what  
1823 the minor can expect while in the facility, and when the minor  
1824 may expect to be released, in a language that is appropriate to  
1825 the minor's age, experience, maturity, and condition. If assent  
1826 is not verified, a petition for involuntary inpatient placement  
1827 must be filed with the court within 1 working day after

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1828 admission or the minor must be released to his or her guardian  
1829 within 24 hours after admission ~~only after a hearing to verify~~  
1830 ~~the voluntariness of the consent.~~

1831 (b) A mental health overlay program, ~~or~~ a mobile crisis  
1832 response service, or a licensed professional who is authorized  
1833 to initiate an involuntary examination pursuant to s. 394.463  
1834 and is employed by a community mental health center or clinic  
1835 must, pursuant to circuit ~~district~~ procedure approved by the  
1836 respective circuit ~~district~~ administrator, conduct an initial  
1837 assessment of the ability of the following individuals ~~persons~~  
1838 to give express and informed consent to treatment before such  
1839 individuals ~~persons~~ may be admitted voluntarily:

1840 1. An individual ~~A person~~ 60 years of age or older for whom  
1841 transfer is being sought from a nursing home, assisted living  
1842 facility, adult day care center, or adult family-care home, if  
1843 ~~when~~ such person has been diagnosed as suffering from dementia.

1844 2. An individual ~~A person~~ 60 years of age or older for whom  
1845 transfer is being sought from a nursing home pursuant to s.  
1846 400.0255(11) ~~400.0255(12)~~.

1847 3. An individual ~~A person~~ for whom all decisions concerning  
1848 medical treatment are currently being lawfully made by a ~~the~~  
1849 health care surrogate or proxy designated under chapter 765.

1850 (c) If ~~When~~ an initial assessment of the ability of an  
1851 individual ~~a person~~ to give express and informed consent to  
1852 treatment is required under this section, and a mobile crisis  
1853 response service does not respond to a ~~the~~ request for an  
1854 assessment within 2 hours after the request is made or informs  
1855 the requesting facility that it will not be able to respond  
1856 within 2 hours after the request is made, the requesting



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1857 facility may arrange for assessment by a ~~any~~ licensed  
 1858 professional authorized to initiate an involuntary examination  
 1859 under pursuant to s. 394.463. The professional may not be ~~who is~~  
 1860 ~~not~~ employed by or under contract with, or ~~and does not~~ have a  
 1861 financial interest in, ~~either~~ the facility initiating the  
 1862 transfer or the ~~receiving~~ facility to which the transfer may be  
 1863 made, and may not have a financial interest in the outcome of  
 1864 the assessment.

1865 (d) A facility may not admit an individual on ~~as~~ a  
 1866 voluntary status ~~patient a person~~ who has been adjudicated  
 1867 incapacitated, unless the condition of incapacity has been  
 1868 judicially removed. If a facility admits an individual on  
 1869 voluntary status ~~as a voluntary patient a person~~ who is later  
 1870 determined to have been adjudicated incapacitated, and the  
 1871 condition of incapacity had not been removed by the time of the  
 1872 admission, the facility must ~~either~~ discharge ~~the patient~~ or  
 1873 transfer the individual ~~patient~~ to involuntary status.

1874 (e) The health care surrogate or proxy of an individual on  
 1875 ~~a voluntary~~ status ~~patient~~ may not consent to the provision of  
 1876 mental health treatment for that individual ~~the patient~~. An  
 1877 individual on voluntary status ~~A voluntary patient~~ who is  
 1878 unwilling or unable to provide express and informed consent to  
 1879 mental health treatment must ~~either~~ be discharged or transferred  
 1880 to involuntary status.

1881 (f) Within 24 hours after an individual's voluntary  
 1882 admission ~~of a voluntary patient~~, the admitting physician shall  
 1883 document in the ~~patient's~~ clinical record that the individual  
 1884 ~~patient~~ is able to give express and informed consent for  
 1885 admission. If the individual ~~patient~~ is not able to give express

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1886 and informed consent for admission, the facility must ~~shall~~  
1887 ~~either~~ discharge ~~the patient~~ or transfer the individual patient  
1888 to involuntary status pursuant to subsection (5).

1889 (2) DISCHARGE ~~OF VOLUNTARY PATIENTS.~~-

1890 (a) A facility shall discharge an individual admitted on a  
1891 voluntary status who patient:

1892 1. ~~Who~~ Has sufficiently improved so that retention in the  
1893 facility is no longer desirable. The individual A patient may  
1894 also be discharged to the care of a community facility.

1895 2. ~~Who~~ Has revoked ~~revokes~~ consent to admission or requests  
1896 discharge. The individual A voluntary patient or his or her a  
1897 relative, friend, or attorney of the patient may request  
1898 discharge ~~either~~ orally or in writing at any time following  
1899 admission to the facility. The individual patient must be  
1900 discharged within 24 hours after ~~of~~ the request, unless the  
1901 request is rescinded or the individual patient is transferred to  
1902 involuntary status pursuant to this section. The 24-hour time  
1903 period may be extended by a treatment facility if when necessary  
1904 for adequate discharge planning, but may ~~shall~~ not exceed 3 days  
1905 exclusive of weekends and holidays. If the individual patient,  
1906 or another on his or her ~~the patient's~~ behalf, makes an oral  
1907 request for discharge to a staff member, such request must ~~shall~~  
1908 be immediately entered in the ~~patient's~~ clinical record. If the  
1909 request for discharge is made by a person other than the  
1910 individual patient, the discharge may be conditioned upon the  
1911 individual's express and informed consent ~~of the patient.~~

1912 (b) An individual on A voluntary status patient who has  
1913 been admitted to a facility and who refuses to consent to or  
1914 revokes consent to treatment must ~~shall~~ be discharged within 24

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1915 hours after such refusal or revocation, unless transferred to  
 1916 involuntary status pursuant to this section or unless the  
 1917 refusal or revocation is freely and voluntarily rescinded by the  
 1918 individual patient.

1919 (c) An individual on voluntary status who has been charged  
 1920 with a crime shall be returned to the custody of a law  
 1921 enforcement officer upon discharge from a facility.

1922 (3) NOTICE OF RIGHT TO DISCHARGE.—At the time of admission  
 1923 and at least every 6 months thereafter, an individual on a  
 1924 voluntary status patient shall be notified in writing of his or  
 1925 her right to apply for a discharge.

1926 (4) TRANSFER TO VOLUNTARY STATUS.—An individual on  
 1927 involuntary status patient who has been certified by a physician  
 1928 or psychologist as competent to provide express and informed  
 1929 consent and who applies to be transferred to voluntary status  
 1930 shall be transferred to voluntary status immediately, unless the  
 1931 individual patient has been charged with a crime, or has been  
 1932 involuntarily placed for treatment by a court pursuant to s.  
 1933 394.467 and continues to meet the criteria for involuntary  
 1934 placement. When transfer to voluntary status occurs, notice  
 1935 shall be given as provided in s. 394.4599.

1936 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on  
 1937 ~~When a~~ voluntary status patient, or an authorized person on the  
 1938 individual's the patient's behalf, makes a request for  
 1939 discharge, the request for discharge, unless freely and  
 1940 voluntarily rescinded, must be communicated to a physician,  
 1941 clinical psychologist, or psychiatrist as quickly as possible,  
 1942 but within not later than 12 hours after the request is made. If  
 1943 the individual patient meets the criteria for involuntary

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1944 placement, the administrator of the facility must file with the  
 1945 court a petition for involuntary placement, within 2 court  
 1946 working days after the request ~~for discharge~~ is made. If the  
 1947 petition is not filed within 2 court working days, the  
 1948 individual must ~~patient shall~~ be discharged. Pending the filing  
 1949 of the petition, the individual ~~patient~~ may be held and  
 1950 emergency treatment rendered in the least restrictive manner,  
 1951 upon the written order of a physician, if it is determined that  
 1952 such treatment is necessary for the safety of the individual  
 1953 ~~patient~~ or others.

1954 Section 20. Section 394.463, Florida Statutes, is amended  
 1955 to read:

1956 394.463 Involuntary examination.-

1957 (1) CRITERIA.-An individual ~~A person~~ may be taken to a  
 1958 receiving facility for involuntary examination if there is  
 1959 reason to believe that he or she ~~the person~~ has a mental illness  
 1960 and because of this ~~his or her~~ mental illness:

1961 (a)1. The individual ~~person~~ has refused voluntary  
 1962 examination after conscientious explanation and disclosure of  
 1963 the purpose of the examination; or

1964 2. The individual ~~person~~ is unable to determine for himself  
 1965 or herself whether examination is necessary; and

1966 (b)1. Without care or treatment, the individual ~~person~~ is  
 1967 likely to suffer from neglect or refuse to care for himself or  
 1968 herself; such neglect or refusal poses a real and present threat  
 1969 of substantial harm to his or her well-being; and it is not  
 1970 apparent that such harm may be avoided through the help of  
 1971 willing family members or friends or the provision of other  
 1972 services; or

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1973           ~~1.2.~~ There is a substantial likelihood that without care or  
1974 treatment the individual ~~person~~ will cause serious bodily harm  
1975 to self ~~himself or herself~~ or others in the near future, as  
1976 evidenced by recent behavior; ~~and.~~

1977           2. There are no less restrictive alternatives available.

1978           (2) INVOLUNTARY EXAMINATION.—

1979           (a) An involuntary examination may be initiated by any one  
1980 of the following means:

1981           1. A court may enter an ex parte order stating that an  
1982 individual ~~a person~~ appears to meet the criteria for involuntary  
1983 examination, giving the findings on which that conclusion is  
1984 based. The ex parte order for involuntary examination must be  
1985 based on sworn testimony, written or oral, which includes  
1986 specific facts that support the finding that the criteria have  
1987 been met. Any behavior relied on for the issuance of the ex  
1988 parte order must have occurred within the preceding 14 days. ~~If~~  
1989 ~~other less restrictive means are not available, such as~~  
1990 ~~voluntary appearance for outpatient evaluation,~~ A law  
1991 enforcement officer, or other designated agent of the court,  
1992 shall take the individual ~~person~~ into custody and deliver him or  
1993 her to the nearest receiving facility for involuntary  
1994 examination. The ~~order of the court~~ order must ~~shall~~ be made a  
1995 part of the ~~patient's~~ clinical record. A ~~No~~ fee may not ~~shall~~ be  
1996 charged for the filing of an order under this subsection. Any  
1997 receiving facility accepting the individual ~~patient~~ based on the  
1998 ~~this~~ order must send a copy of the order to the Agency for  
1999 Health Care Administration on the next working day. The order is  
2000 ~~shall be~~ valid only until executed or, if not executed, for the  
2001 period specified in the order itself. If a ~~no~~ time limit is not

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2002 specified in the order, the order is ~~shall be~~ valid for 7 days  
2003 after the date it ~~that the order~~ was signed.

2004 2. A law enforcement officer shall take an individual ~~a~~  
2005 ~~person~~ who appears to meet the criteria for involuntary  
2006 examination into custody and deliver or arrange for the delivery  
2007 of the individual ~~the person or have him or her delivered~~ to the  
2008 nearest receiving facility for examination. The officer shall  
2009 complete ~~execute~~ a written report detailing the circumstances  
2010 under which the individual ~~person~~ was taken into custody., ~~and~~  
2011 The report must ~~shall~~ be made a part of the ~~patient's~~ clinical  
2012 record. Any receiving facility accepting the individual ~~patient~~  
2013 based on the ~~this~~ report must send a copy of the report to the  
2014 Agency for Health Care Administration on the next working day.

2015 3. A physician, clinical psychologist, psychiatric nurse,  
2016 mental health counselor, marriage and family therapist, ~~or~~  
2017 clinical social worker, or physician assistant may execute a  
2018 certificate stating that he or she has examined the individual ~~a~~  
2019 ~~person~~ within the preceding 48 hours and finds that the  
2020 individual ~~person~~ appears to meet the criteria for involuntary  
2021 examination and stating the observations upon which that  
2022 conclusion is based. The certificate must be immediately  
2023 executed and is valid only until executed or for up to 7  
2024 calendar days, whichever occurs first. ~~If other less restrictive~~  
2025 ~~means are not available, such as voluntary appearance for~~  
2026 ~~outpatient evaluation,~~ A law enforcement officer shall take the  
2027 individual ~~person~~ named in the certificate into custody and  
2028 deliver him or her to the nearest receiving facility for  
2029 involuntary examination. The law enforcement officer shall  
2030 complete ~~execute~~ a written report detailing the circumstances

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2031 under which the individual ~~person~~ was taken into custody. The  
2032 report and certificate shall be made a part of the ~~patient's~~  
2033 clinical record. Any receiving facility accepting the individual  
2034 ~~patient~~ based on the ~~this~~ certificate must send a copy of the  
2035 certificate to the Agency for Health Care Administration on the  
2036 next working day.

2037  
2038 A person who initiates an involuntary examination of a minor  
2039 shall make and document immediate attempts to notify the minor's  
2040 guardian of such examination. A receiving facility accepting a  
2041 minor for involuntary examination must immediately notify the  
2042 minor's guardian upon the minor's arrival.

2043 (b) An individual may ~~A person shall~~ not be removed from a  
2044 ~~any~~ program or residential placement licensed under chapter 400  
2045 or chapter 429 and transported to a receiving facility for  
2046 involuntary examination unless an ex parte order, a professional  
2047 certificate, or a law enforcement officer's report is first  
2048 prepared. If the condition of the individual ~~person~~ is such that  
2049 preparation of a law enforcement officer's report is not  
2050 practicable before removal, the report must ~~shall~~ be completed  
2051 as soon as possible after removal, but ~~in any case~~ before the  
2052 individual ~~person~~ is transported to a receiving facility. A  
2053 receiving facility admitting an individual ~~a person~~ for  
2054 involuntary examination who is not accompanied by the required  
2055 ex parte order, professional certificate, or law enforcement  
2056 officer's report must ~~shall~~ notify the Agency for Health Care  
2057 Administration of such admission by certified mail by no later  
2058 ~~than~~ the next working day. ~~The provisions of this paragraph do~~  
2059 ~~not apply when transportation is provided by the patient's~~

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2060 ~~family or guardian.~~

2061 (c) A law enforcement officer acting in accordance with an  
2062 ex parte order issued pursuant to this subsection may serve and  
2063 execute such order on any day of the week, at any time of the  
2064 day or night.

2065 (d) A law enforcement officer acting in accordance with an  
2066 ex parte order issued pursuant to this subsection may use ~~such~~  
2067 reasonable physical force if as is necessary to gain entry to  
2068 the premises, and any dwellings, buildings, or other structures  
2069 located on the premises, and to take custody of the individual  
2070 ~~person~~ who is the subject of the ex parte order.

2071 (e) The Agency for Health Care Administration shall receive  
2072 and maintain the copies of ex parte orders, involuntary  
2073 outpatient placement orders issued pursuant to s. 394.4655,  
2074 involuntary inpatient placement orders issued pursuant to s.  
2075 394.467, professional certificates, and law enforcement  
2076 officers' reports. These documents shall be considered part of  
2077 the clinical record, ~~governed by the provisions of s. 394.4615.~~  
2078 The agency shall prepare annual reports analyzing the data  
2079 obtained from these documents, ~~without information identifying~~  
2080 individuals held for examination or admitted for mental health  
2081 treatment patients, and shall provide copies of reports to the  
2082 department, the President of the Senate, the Speaker of the  
2083 House of Representatives, and the minority leaders of the Senate  
2084 and the House of Representatives.

2085 (f) An individual ~~A patient~~ shall be examined by a  
2086 physician or clinical psychologist ~~at a receiving facility~~  
2087 without unnecessary delay to determine if the criteria for  
2088 involuntary inpatient placement is met. Emergency treatment may



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2089 ~~be provided and may, upon the order of a physician, be given~~  
2090 ~~emergency treatment~~ if it is determined that such treatment is  
2091 necessary for the safety of the patient or others. ~~The patient~~  
2092 ~~may not be released by the receiving facility or its contractor~~  
2093 ~~without the documented approval of a psychiatrist, a clinical~~  
2094 ~~psychologist, or, if the receiving facility is a hospital, the~~  
2095 ~~release may also be approved by an attending emergency~~  
2096 ~~department physician with experience in the diagnosis and~~  
2097 ~~treatment of mental and nervous disorders and after completion~~  
2098 ~~of an involuntary examination pursuant to this subsection.~~  
2099 ~~However, a patient may not be held in a receiving facility for~~  
2100 ~~involuntary examination longer than 72 hours.~~

2101 (g) An individual may not be held for involuntary  
2102 examination for more than 72 hours. Based on the individual's  
2103 needs, one of the following actions must be taken within the 72-  
2104 hour period:

2105 1. The individual shall be released after the completion of  
2106 the involuntary examination with the documented approval of a  
2107 psychiatrist or a clinical psychologist or, if the facility is a  
2108 hospital, the release may be approved by an attending emergency  
2109 department physician;

2110 2. The individual shall be asked to give express and  
2111 informed consent for voluntary admission if a physician or  
2112 clinical psychologist has determined that the individual is  
2113 competent to consent to treatment; or

2114 3. A petition for involuntary placement shall be completed  
2115 and filed in the circuit court if involuntary outpatient or  
2116 inpatient treatment is deemed necessary. If the 72-hour period  
2117 ends on a weekend or holiday, the petition must be filed by the

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2118 next working day. If inpatient treatment is deemed necessary,  
2119 the least restrictive treatment consistent with the optimum  
2120 improvement of the individual's condition must be made  
2121 available. A petition for involuntary outpatient placement shall  
2122 be filed by one of the petitioners specified in s.  
2123 394.4655(3) (a), and a petition for involuntary inpatient  
2124 placement shall be filed by the facility administrator.

2125 (h) An individual released from a receiving or treatment  
2126 facility on a voluntary or involuntary basis who is charged with  
2127 a crime shall be returned to the custody of a law enforcement  
2128 officer.

2129 (i) ~~(g)~~ If an individual ~~A person~~ for whom an involuntary  
2130 examination has been initiated ~~who is also~~ being evaluated or  
2131 treated at a hospital for an emergency medical condition  
2132 specified in s. 395.002, ~~must be examined by a receiving~~  
2133 ~~facility within 72 hours.~~ the 72-hour period begins when the  
2134 individual ~~patient~~ arrives at the hospital and ceases when the  
2135 attending physician documents that the patient has an emergency  
2136 medical condition. The 72-hour period resumes when the physician  
2137 documents that the emergency medical condition has stabilized or  
2138 does not exist. ~~If the patient is examined at a hospital~~  
2139 ~~providing emergency medical services by a professional qualified~~  
2140 ~~to perform an involuntary examination and is found as a result~~  
2141 ~~of that examination not to meet the criteria for involuntary~~  
2142 ~~outpatient placement pursuant to s. 394.4655(1) or involuntary~~  
2143 ~~inpatient placement pursuant to s. 394.467(1), the patient may~~  
2144 ~~be offered voluntary placement, if appropriate, or released~~  
2145 ~~directly from the hospital providing emergency medical services.~~  
2146 ~~The finding by the professional that the patient has been~~

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2147 ~~examined and does not meet the criteria for involuntary~~  
2148 ~~inpatient placement or involuntary outpatient placement must be~~  
2149 ~~entered into the patient's clinical record. Nothing in this~~  
2150 ~~paragraph is intended to prevent~~ A hospital providing emergency  
2151 medical services may transfer an individual ~~from appropriately~~  
2152 ~~transferring a patient~~ to another hospital before ~~prior to~~  
2153 stabilization if, ~~provided~~ the requirements of s. 395.1041(3)(c)  
2154 are ~~have been~~ met.

2155 ~~(h)~~ One of the following must occur within 12 hours after  
2156 the ~~patient's~~ attending physician documents that the  
2157 individual's ~~patient's~~ medical condition has stabilized or that  
2158 an emergency medical condition does not exist:

2159 1. The individual shall be examined by a physician or  
2160 clinical psychologist and, if found not to meet the criteria for  
2161 involuntary examination pursuant to s. 394.463, shall be  
2162 released directly from the hospital providing the emergency  
2163 medical services. The results of the examination, including the  
2164 final disposition, shall be entered into the clinical record; or

2165 2. The individual shall be transferred to a receiving  
2166 facility for examination if appropriate medical and mental  
2167 health treatment are available. However, the receiving facility  
2168 must be notified of the transfer within 2 hours after the  
2169 individual's condition has been stabilized or after  
2170 determination that an emergency medical condition does not  
2171 exist.

2172 ~~1. The patient must be examined by a designated receiving~~  
2173 ~~facility and released; or~~

2174 ~~2. The patient must be transferred to a designated~~  
2175 ~~receiving facility in which appropriate medical treatment is~~

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2176 available. However, ~~the receiving facility must be notified of~~  
2177 ~~the transfer within 2 hours after the patient's condition has~~  
2178 ~~been stabilized or after determination that an emergency medical~~  
2179 ~~condition does not exist.~~

2180 ~~(i) Within the 72-hour examination period or, if the 72~~  
2181 ~~hours ends on a weekend or holiday, no later than the next~~  
2182 ~~working day thereafter, one of the following actions must be~~  
2183 ~~taken, based on the individual needs of the patient:~~

2184 ~~1. The patient shall be released, unless he or she is~~  
2185 ~~charged with a crime, in which case the patient shall be~~  
2186 ~~returned to the custody of a law enforcement officer;~~

2187 ~~2. The patient shall be released, subject to the provisions~~  
2188 ~~of subparagraph 1., for voluntary outpatient treatment;~~

2189 ~~3. The patient, unless he or she is charged with a crime,~~  
2190 ~~shall be asked to give express and informed consent to placement~~  
2191 ~~as a voluntary patient, and, if such consent is given, the~~  
2192 ~~patient shall be admitted as a voluntary patient; or~~

2193 ~~4. A petition for involuntary placement shall be filed in~~  
2194 ~~the circuit court when outpatient or inpatient treatment is~~  
2195 ~~deemed necessary. When inpatient treatment is deemed necessary,~~  
2196 ~~the least restrictive treatment consistent with the optimum~~  
2197 ~~improvement of the patient's condition shall be made available.~~  
2198 ~~When a petition is to be filed for involuntary outpatient~~  
2199 ~~placement, it shall be filed by one of the petitioners specified~~  
2200 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~  
2201 ~~placement shall be filed by the facility administrator.~~

2202 (3) NOTICE OF RELEASE.—Notice of the release shall be given  
2203 to the individual's ~~patient's~~ guardian or representative, to any  
2204 person who executed a certificate admitting the individual

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2205 ~~patient~~ to the receiving facility, and to any court that ~~which~~  
2206 ordered the individual's ~~patient's~~ evaluation.

2207 Section 21. Section 394.4655, Florida Statutes, is amended  
2208 to read:

2209 394.4655 Involuntary outpatient placement.—

2210 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT PLACEMENT.—An  
2211 individual ~~A person~~ may be ordered to involuntary outpatient  
2212 placement upon a finding of the court ~~that~~ by clear and  
2213 convincing evidence that:

2214 (a) The individual ~~person~~ is 18 years of age or older;

2215 (b) The individual ~~person~~ has a mental illness;

2216 (c) The individual ~~person~~ is unlikely to survive safely in  
2217 the community without supervision, based on a clinical  
2218 determination;

2219 (d) The individual ~~person~~ has a history of lack of  
2220 compliance with treatment for mental illness;

2221 (e) The individual ~~person~~ has:

2222 1. At least twice within the immediately preceding 36  
2223 months been involuntarily admitted to a receiving or treatment  
2224 facility ~~as defined in s. 394.455~~, or has received mental health  
2225 services in a forensic or correctional facility. The 36-month  
2226 period does not include any period during which the individual  
2227 ~~person~~ was admitted or incarcerated; or

2228 2. Engaged in one or more acts of serious violent behavior  
2229 toward self or others, or attempts at serious bodily harm to  
2230 self ~~himself or herself~~ or others, within the preceding 36  
2231 months;

2232 (f) Due to ~~The person is, as a result of~~ his or her mental  
2233 illness, the individual is unlikely to voluntarily participate

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2234 in the recommended treatment plan and ~~either he or she~~ has  
 2235 refused voluntary placement for treatment after sufficient and  
 2236 conscientious explanation and disclosure of the purpose of  
 2237 placement for treatment or ~~he or she~~ is unable to determine for  
 2238 himself or herself whether placement is necessary;

2239 (g) In view of the individual's ~~person's~~ treatment history  
 2240 and current behavior, the individual ~~person~~ is in need of  
 2241 involuntary outpatient placement in order to prevent a relapse  
 2242 or deterioration that would be likely to result in serious  
 2243 bodily harm to self ~~himself or herself~~ or others, or a  
 2244 substantial harm to his or her well-being as set forth in s.  
 2245 394.463(1);

2246 (h) It is likely that the individual ~~person~~ will benefit  
 2247 from involuntary outpatient placement; and

2248 (i) All available, less restrictive alternatives that ~~would~~  
 2249 offer an opportunity for improvement of his or her condition  
 2250 have been judged to be inappropriate or unavailable.

2251 (2) INVOLUNTARY OUTPATIENT PLACEMENT.-

2252 (a) ~~1.~~ An individual who is being recommended for  
 2253 involuntary outpatient placement by ~~A patient may be retained by~~  
 2254 ~~a receiving facility upon the recommendation of the~~  
 2255 administrator of the ~~a~~ receiving facility where the individual  
 2256 ~~patient~~ has been examined may be retained by the facility ~~and~~  
 2257 after adherence to the notice and ~~of~~ hearing procedures provided  
 2258 in s. 394.4599.

2259 1. The recommendation must be supported by the opinion of a  
 2260 psychiatrist and the second opinion of a clinical psychologist  
 2261 or another psychiatrist, both of whom have personally examined  
 2262 the individual ~~patient~~ within the preceding 72 hours, that the

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2263 criteria for involuntary outpatient placement are met. However,  
2264 in a county having a population of fewer than 50,000, if the  
2265 administrator certifies that a ~~ne~~ psychiatrist or clinical  
2266 psychologist is not available to provide the second opinion, the  
2267 second opinion may be provided by a ~~licensed~~ physician who has  
2268 postgraduate training and experience in diagnosis and treatment  
2269 of mental and nervous disorders or by a psychiatric nurse ~~as~~  
2270 ~~defined in this chapter~~. Such a recommendation must be entered  
2271 on an involuntary outpatient placement certificate that  
2272 authorizes, ~~which certificate must authorize~~ the receiving  
2273 facility to retain the individual patient pending completion of  
2274 a hearing. The certificate shall be made a part of the ~~patient's~~  
2275 clinical record.

2276 2. If the individual patient has been stabilized and no  
2277 longer meets the criteria for involuntary examination under  
2278 ~~pursuant to~~ s. 394.463(1), he or she ~~the patient~~ must be  
2279 released from the receiving facility while awaiting the hearing  
2280 for involuntary outpatient placement.

2281 3. Before ~~Prior to~~ filing a petition for involuntary  
2282 outpatient treatment, the administrator of the ~~a~~ receiving  
2283 facility or a designated department representative shall  
2284 identify the service provider that will have primary  
2285 responsibility for service provision under an order for  
2286 involuntary outpatient placement, unless the individual person  
2287 is otherwise participating in outpatient psychiatric treatment  
2288 and is not in need of public financing for that treatment, in  
2289 which case the individual, if eligible, may be ordered to  
2290 involuntary treatment pursuant to the existing psychiatric  
2291 treatment relationship.

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2292        ~~4.3.~~ The service provider shall prepare a written proposed  
2293 treatment plan in consultation with the individual being held  
2294 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if  
2295 appointed, for the court's consideration for inclusion in the  
2296 involuntary outpatient placement order. The service provider  
2297 shall ~~also~~ provide a copy of the proposed treatment plan to the  
2298 individual ~~patient~~ and the administrator of the receiving  
2299 facility. The treatment plan must specify the nature and extent  
2300 of the individual's ~~patient's~~ mental illness, ~~The treatment~~  
2301 ~~plan must~~ address the reduction of symptoms that necessitate  
2302 involuntary outpatient placement, and include measurable goals  
2303 and objectives for the services and treatment that are provided  
2304 to treat the individual's ~~person's~~ mental illness and ~~to~~ assist  
2305 the individual ~~person~~ in living and functioning in the community  
2306 or ~~to attempt~~ to prevent a relapse or deterioration. Service  
2307 providers may select and supervise ~~provide supervision to~~ other  
2308 service providers ~~individuals~~ to implement specific aspects of  
2309 the treatment plan. The services in the treatment plan must be  
2310 deemed ~~to be~~ clinically appropriate by a physician, clinical  
2311 psychologist, psychiatric nurse, mental health counselor,  
2312 marriage and family therapist, or clinical social worker, ~~as~~  
2313 ~~defined in this chapter,~~ who consults with, or is employed or  
2314 contracted by, the service provider. The service provider must  
2315 certify to the court in the proposed treatment plan whether  
2316 sufficient services for improvement and stabilization are  
2317 currently available and whether the service provider agrees to  
2318 provide those services. If the service provider certifies that  
2319 the services in the proposed treatment plan are not available,  
2320 the petitioner may not file the petition.



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2321 (b) If an individual ~~a patient~~ in involuntary inpatient  
2322 placement meets the criteria for involuntary outpatient  
2323 placement, the administrator of the treatment facility may,  
2324 before the expiration of the period during which the treatment  
2325 facility is authorized to retain the individual ~~patient~~,  
2326 recommend involuntary outpatient placement.

2327 1. The recommendation must be supported by the opinion of a  
2328 psychiatrist and the second opinion of a clinical psychologist  
2329 or another psychiatrist, both of whom have personally examined  
2330 the individual ~~patient~~ within the preceding 72 hours, that the  
2331 criteria for involuntary outpatient placement are met. However,  
2332 in a county having a population of fewer than 50,000, if the  
2333 administrator certifies that a ~~no~~ psychiatrist or clinical  
2334 psychologist is not available to provide the second opinion, the  
2335 second opinion may be provided by a licensed physician who has  
2336 postgraduate training and experience in diagnosis and treatment  
2337 of mental and nervous disorders or by a psychiatric nurse ~~as~~  
2338 ~~defined in s. 394.455(23)~~. Such a recommendation must be entered  
2339 on an involuntary outpatient placement certificate, and the  
2340 certificate shall be made a part of the ~~patient's~~ clinical  
2341 record.

2342 ~~(e)1.~~ The administrator of the treatment facility shall  
2343 provide a copy of the involuntary outpatient placement  
2344 certificate and a copy of the state mental health discharge form  
2345 to a department representative in the county where the  
2346 individual ~~patient~~ will be residing. ~~For persons who are leaving~~  
2347 ~~a state mental health treatment facility, the petition for~~  
2348 ~~involuntary outpatient placement must be filed in the county~~  
2349 ~~where the patient will be residing.~~

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2350           2. The service provider that will have primary  
 2351 responsibility for service provision shall be identified by the  
 2352 designated department representative prior to the order for  
 2353 involuntary outpatient placement and shall ~~must~~, before ~~prior to~~  
 2354 filing a petition for involuntary outpatient placement, certify  
 2355 to the court whether the services recommended in the  
 2356 individual's ~~patient's~~ discharge plan are available in the local  
 2357 community and whether the service provider agrees to provide  
 2358 those services. The service provider shall ~~must~~ develop with the  
 2359 individual ~~patient~~, or the individual's ~~patient's~~ guardian  
 2360 advocate, if one is appointed, a treatment or service plan that  
 2361 addresses the needs identified in the discharge plan. The plan  
 2362 must be deemed to be clinically appropriate by a physician,  
 2363 clinical psychologist, psychiatric nurse, mental health  
 2364 counselor, marriage and family therapist, or clinical social  
 2365 worker, ~~as defined in this chapter~~, who consults with, or is  
 2366 employed or contracted by, the service provider.

2367           ~~3. If the service provider certifies that the services in~~  
 2368 ~~the proposed treatment or service plan are not available, the~~  
 2369 ~~petitioner may not file the petition.~~

2370           (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

2371           (a) A petition for involuntary outpatient placement may be  
 2372 filed by:

- 2373           1. The administrator of a receiving facility; or
- 2374           2. The administrator of a treatment facility.

2375           (b) Each required criterion for involuntary outpatient  
 2376 placement must be alleged and substantiated in the petition for  
 2377 involuntary outpatient placement. A copy of the certificate  
 2378 recommending involuntary outpatient placement completed by a

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2379 qualified professional specified in subsection (2) must be  
2380 attached to the petition. A copy of the proposed treatment plan  
2381 must be attached to the petition. Before the petition is filed,  
2382 the service provider shall certify that the services in the  
2383 proposed treatment plan are available. If the necessary services  
2384 are not available in the ~~patient's local~~ community where the  
2385 individual will reside ~~to respond to the person's individual~~  
2386 ~~needs~~, the petition may not be filed.

2387 (c) A ~~The~~ petition for involuntary outpatient placement  
2388 must be filed in the county where the individual who is the  
2389 subject of the petition ~~patient~~ is located, unless the  
2390 individual ~~the patient~~ is being placed from a state treatment  
2391 facility, in which case the petition must be filed in the county  
2392 where the individual ~~patient~~ will reside. When the petition is  
2393 ~~has been~~ filed, the clerk of the court shall provide copies of  
2394 the petition and the proposed treatment plan to the department,  
2395 the individual ~~patient~~, the individual's ~~patient's~~ guardian or  
2396 representative, the state attorney, and the public defender or  
2397 ~~the patient's~~ private counsel representing the individual. A fee  
2398 may not be charged for filing a petition under this subsection.

2399 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day  
2400 after ~~the~~ filing ~~of~~ a petition for involuntary outpatient  
2401 placement, the court shall appoint a ~~the~~ public defender to  
2402 represent the individual ~~person~~ who is the subject of the  
2403 petition, unless the individual ~~person~~ is otherwise represented  
2404 by counsel. The clerk of the court shall immediately notify the  
2405 public defender of the appointment. The public defender shall  
2406 represent the individual ~~person~~ until the petition is dismissed,  
2407 the court order expires, or the individual ~~patient~~ is discharged

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2408 from involuntary outpatient placement. An attorney who  
2409 represents the individual patient shall have access to the  
2410 individual patient, witnesses, and records relevant to the  
2411 presentation of the individual's patient's case and shall  
2412 represent the interests of the individual patient, regardless of  
2413 the source of payment to the attorney.

2414 ~~(5) CONTINUANCE OF HEARING. The patient is entitled, with~~  
2415 ~~the concurrence of the patient's counsel, to at least one~~  
2416 ~~continuance of the hearing. The continuance shall be for a~~  
2417 ~~period of up to 4 weeks.~~

2418 (5)~~(6)~~ HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.-

2419 (a)~~1~~. The court shall hold the hearing on involuntary  
2420 outpatient placement within 5 working days after the filing of  
2421 the petition, unless a continuance is granted. The hearing shall  
2422 be held in the county where the petition is filed, ~~shall~~ be as  
2423 convenient to the individual who is the subject of the petition  
2424 ~~patient~~ as is consistent with orderly procedure, and ~~shall~~ be  
2425 conducted in physical settings not likely to be injurious to the  
2426 individual's patient's condition. If the court finds that the  
2427 individual's patient's attendance at the hearing is not  
2428 consistent with the individual's best interests, ~~of the patient~~  
2429 and if the individual's patient's counsel does not object, the  
2430 court may waive the presence of the individual patient from all  
2431 or any portion of the hearing. The state attorney for the  
2432 circuit in which the individual patient is located shall  
2433 represent the state, rather than the petitioner, as the real  
2434 party in interest in the proceeding.

2435 (b)~~2~~. The court may appoint a magistrate master to preside  
2436 at the hearing. One of the professionals who executed the

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2437 involuntary outpatient placement certificate shall be a witness.  
2438 The individual who is the subject of the petition ~~patient~~ and  
2439 his or her ~~the patient's~~ guardian or representative shall be  
2440 informed by the court of the right to an independent expert  
2441 examination. If the individual ~~patient~~ cannot afford such an  
2442 examination, the court shall provide ~~for~~ one. The independent  
2443 expert's report is ~~shall be~~ confidential and not discoverable,  
2444 unless the expert is ~~to be~~ called as a witness for the  
2445 individual ~~patient~~ at the hearing. The court shall allow  
2446 testimony from persons ~~individuals~~, including family members,  
2447 deemed by the court to be relevant ~~under state law~~, regarding  
2448 the individual's ~~person's~~ prior history and how that ~~prior~~  
2449 history relates to the individual's ~~person's~~ current condition.  
2450 The testimony in the hearing must be ~~given~~ under oath, and the  
2451 proceedings must be recorded. The individual ~~patient~~ may refuse  
2452 to testify at the hearing.

2453 (c) At the hearing on involuntary outpatient placement, the  
2454 court shall consider testimony and evidence regarding the  
2455 competence of the individual being held to consent to treatment.  
2456 If the court finds that the individual is incompetent to  
2457 consent, it shall appoint a guardian advocate as provided in s.  
2458 394.4598.

2459 (d) The individual who is the subject of the petition is  
2460 entitled to at least one continuance of the hearing for up to 4  
2461 weeks, with the concurrence of the individual's counsel.

2462 (6) COURT ORDER.-

2463 (a) ~~(b)~~ 1. If the court concludes that the individual who is  
2464 the subject of the petition ~~patient~~ meets the criteria for  
2465 involuntary outpatient placement under ~~pursuant to~~ subsection

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2466 (1), the court shall issue an order for involuntary outpatient  
2467 placement. The court order may ~~shall~~ be for a ~~period of~~ up to 6  
2468 months. The order must specify the nature and extent of the  
2469 individual's ~~patient's~~ mental illness. The court order ~~of the~~  
2470 ~~court~~ and the treatment plan must ~~shall~~ be made part of the  
2471 ~~patient's~~ clinical record. The service provider shall discharge  
2472 an individual ~~a patient~~ from involuntary outpatient placement  
2473 when the order expires or any time the individual ~~patient~~ no  
2474 longer meets the criteria for involuntary placement. Upon  
2475 discharge, the service provider shall send a certificate of  
2476 discharge to the court.

2477 (b)2- The court may not order the department or the service  
2478 provider to provide services if the program or service is not  
2479 available in the ~~patient's~~ local community of the individual  
2480 being served, if there is no space available in the program or  
2481 service for the individual ~~patient~~, or if funding is not  
2482 available for the program or service. A copy of the order must  
2483 be sent to the Agency for Health Care Administration by the  
2484 service provider within 1 working day after it is received from  
2485 the court. After the placement order is issued, the service  
2486 provider and the individual ~~patient~~ may modify ~~provisions of~~ the  
2487 treatment plan. For any material modification of the treatment  
2488 plan to which the individual ~~patient~~ or the individual's  
2489 ~~patient's~~ guardian advocate, if appointed, agrees ~~does agree~~,  
2490 the service provider shall send notice of the modification to  
2491 the court. Any material modifications of the treatment plan  
2492 which are contested by the individual ~~patient~~ or the  
2493 individual's ~~patient's~~ guardian advocate, if appointed, must be  
2494 approved or disapproved by the court consistent with the

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2495 requirements of subsection (2).

2496 (c)~~3.~~ If, in the clinical judgment of a physician, the  
2497 individual being served ~~patient~~ has failed or has refused to  
2498 comply with the treatment ordered by the court, and, in the  
2499 clinical judgment of the physician, efforts were made to solicit  
2500 compliance and the individual ~~patient~~ may meet the criteria for  
2501 involuntary examination, the individual ~~a person~~ may be brought  
2502 to a receiving facility pursuant to s. 394.463 for involuntary  
2503 examination. If, after examination, the individual ~~patient~~ does  
2504 not meet the criteria for involuntary inpatient placement under  
2505 ~~pursuant to~~ s. 394.467, the individual ~~patient~~ must be  
2506 discharged from the receiving facility. The involuntary  
2507 outpatient placement order remains ~~shall remain~~ in effect unless  
2508 the service provider determines that the individual ~~patient~~ no  
2509 longer meets the criteria for involuntary outpatient placement  
2510 or until the order expires. The service provider shall ~~must~~  
2511 determine whether modifications should be made to the existing  
2512 treatment plan and must ~~continue to~~ attempt ~~to continue~~ to  
2513 engage the individual ~~patient~~ in treatment. For any material  
2514 modification of the treatment plan to which the individual  
2515 ~~patient~~ or the individual's ~~patient's~~ guardian advocate, if  
2516 appointed, agrees ~~does agree~~, the service provider shall send  
2517 notice of the modification to the court. Any material  
2518 modifications of the treatment plan which are contested by the  
2519 individual ~~patient~~ or the individual's ~~patient's~~ guardian  
2520 advocate, if appointed, must be approved or disapproved by the  
2521 court consistent with the requirements of subsection (2).

2522 (d)~~(e)~~ If, at any time before the conclusion of the initial  
2523 hearing on involuntary outpatient placement, it appears to the

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2524 court that the individual ~~person~~ does not meet the criteria for  
2525 involuntary outpatient placement under this section but,  
2526 ~~instead,~~ meets the criteria for involuntary inpatient placement,  
2527 the court may order the individual ~~person~~ admitted for  
2528 involuntary inpatient examination under s. 394.463. If the  
2529 individual ~~person~~ instead meets the criteria for involuntary  
2530 assessment, protective custody, or involuntary admission under  
2531 ~~pursuant to~~ s. 397.675, the court may order the individual  
2532 ~~person~~ to be admitted for involuntary assessment ~~for a period of~~  
2533 ~~5 days~~ pursuant to s. 397.6811. Thereafter, all proceedings are  
2534 ~~shall be~~ governed by chapter 397.

2535 ~~(d) At the hearing on involuntary outpatient placement, the~~  
2536 ~~court shall consider testimony and evidence regarding the~~  
2537 ~~patient's competence to consent to treatment. If the court finds~~  
2538 ~~that the patient is incompetent to consent to treatment, it~~  
2539 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~  
2540 ~~The guardian advocate shall be appointed or discharged in~~  
2541 ~~accordance with s. 394.4598.~~

2542 (e) The administrator of the receiving facility or the  
2543 designated department representative shall provide a copy of the  
2544 court order and adequate documentation of an individual's ~~a~~  
2545 ~~patient's~~ mental illness to the service provider for involuntary  
2546 outpatient placement. Such documentation must include any  
2547 advance directives made by the individual ~~patient~~, a psychiatric  
2548 evaluation of the individual ~~patient~~, and any evaluations of the  
2549 individual ~~patient~~ performed by a clinical psychologist or a  
2550 clinical social worker.

2551 (7) ~~PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT~~  
2552 ~~PLACEMENT.~~—



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2553 (a)~~1.~~ If an individual ~~the person~~ continues to meet the  
2554 criteria for involuntary outpatient placement, the service  
2555 provider shall, before the expiration of the period during which  
2556 the placement ~~treatment~~ is ordered ~~for the person~~, file in the  
2557 circuit court a petition for continued involuntary outpatient  
2558 placement.

2559 ~~1.2.~~ The existing involuntary outpatient placement order  
2560 remains in effect until disposition of ~~on~~ the petition for  
2561 continued involuntary outpatient placement.

2562 ~~2.3.~~ A certificate must ~~shall~~ be attached to the petition  
2563 which includes a statement from the individual's ~~person's~~  
2564 physician or clinical psychologist justifying the request, a  
2565 brief description of the individual's ~~patient's~~ treatment during  
2566 the time he or she was involuntarily placed, and a personalized  
2567 ~~an individualized~~ plan of continued treatment.

2568 ~~3.4.~~ The service provider shall develop the ~~individualized~~  
2569 plan of continued treatment in consultation with the individual  
2570 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if  
2571 appointed. When the petition has been filed, the clerk of the  
2572 court shall provide copies of the certificate and the  
2573 ~~individualized~~ plan of continued treatment to the department,  
2574 the individual ~~patient~~, the individual's ~~patient's~~ guardian  
2575 advocate, the state attorney, and the individual's ~~patient's~~  
2576 private counsel or the public defender.

2577 (b) Within 1 court working day after the filing of a  
2578 petition for continued involuntary outpatient placement, the  
2579 court shall appoint the public defender to represent the  
2580 individual ~~person~~ who is the subject of the petition, unless the  
2581 individual ~~person~~ is otherwise represented by counsel. The clerk

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2582 of the court shall immediately notify the public defender of  
2583 such appointment. The public defender shall represent the  
2584 individual person until the petition is dismissed, ~~or~~ the court  
2585 order expires, or the individual patient is discharged from  
2586 involuntary outpatient placement. ~~An~~ Any attorney representing  
2587 the individual must patient shall have access to the individual  
2588 patient, witnesses, and records relevant to the presentation of  
2589 the individual's patient's case and shall represent the  
2590 interests of the individual patient, regardless of the source of  
2591 payment to the attorney.

2592 (c) The court shall inform the individual who is the  
2593 subject of the petition and his or her guardian, guardian  
2594 advocate, or representative of the individual's right to an  
2595 independent expert examination. If the individual cannot afford  
2596 such an examination, the court shall provide one.

2597 (d) ~~(e)~~ Hearings on petitions for continued involuntary  
2598 outpatient placement are ~~shall be~~ before the circuit court. The  
2599 court may appoint a magistrate ~~master~~ to preside at the hearing.  
2600 The procedures for obtaining an order pursuant to this paragraph  
2601 must ~~shall~~ be in accordance with subsection (6), except that the  
2602 time period included in paragraph (1) (e) is not applicable for  
2603 ~~in~~ determining the appropriateness of additional periods of  
2604 involuntary outpatient placement.

2605 (e) ~~(d)~~ Notice of the hearing shall be provided in  
2606 accordance with as set forth in s. 394.4599. The individual  
2607 being served patient and the individual's patient's attorney may  
2608 agree to a period of continued outpatient placement without a  
2609 court hearing.

2610 (f) ~~(e)~~ The same procedure must ~~shall~~ be repeated before the

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2611 expiration of each additional period the individual being served  
2612 ~~patient~~ is placed in treatment.

2613 (g) ~~(f)~~ If the individual in involuntary outpatient  
2614 placement ~~patient~~ has previously been found incompetent to  
2615 consent to treatment, the court shall consider testimony and  
2616 evidence regarding the individual's ~~patient's~~ competence.  
2617 Section 394.4598 governs the discharge of the guardian advocate  
2618 if the individual's ~~patient's~~ competency to consent to treatment  
2619 has been restored.

2620 Section 22. Section 394.467, Florida Statutes, is amended  
2621 to read:

2622 394.467 Involuntary inpatient placement.—

2623 (1) CRITERIA.—An individual ~~A person~~ may be placed in  
2624 involuntary inpatient placement for treatment upon a finding of  
2625 the court by clear and convincing evidence that:

2626 (a) He or she is mentally ill and because of his or her  
2627 mental illness:

2628 1.a. He or she has refused voluntary placement for  
2629 treatment after sufficient and conscientious explanation and  
2630 disclosure of the purpose of placement for treatment; or

2631 b. He or she is unable to determine for himself or herself  
2632 whether placement is necessary; and

2633 2.a. He or she is manifestly incapable of surviving alone  
2634 or with the help of willing and responsible family or friends,  
2635 including available alternative services, and, without  
2636 treatment, is likely to suffer from neglect or refuse to care  
2637 for himself or herself, and such neglect or refusal poses a real  
2638 and present threat of substantial harm to his or her well-being;  
2639 or

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2640 b. There is substantial likelihood that in the near future  
2641 he or she will inflict serious bodily harm on self or others  
2642 ~~himself or herself or another person~~, as evidenced by recent  
2643 behavior causing, attempting, or threatening such harm; and

2644 (b) All available less restrictive treatment alternatives  
2645 that ~~which would~~ offer an opportunity for improvement of his or  
2646 her condition have been judged to be inappropriate.

2647 (2) ADMISSION TO A TREATMENT FACILITY.—An individual ~~A~~  
2648 ~~patient~~ may be retained by a receiving facility or involuntarily  
2649 placed in a treatment facility upon the recommendation of the  
2650 administrator of a receiving facility where the individual  
2651 ~~patient~~ has been examined and after adherence to the notice and  
2652 hearing procedures provided in s. 394.4599. The recommendation  
2653 must be supported by the opinion of a psychiatrist and the  
2654 second opinion of a clinical psychologist or another  
2655 psychiatrist, both of whom have personally examined the  
2656 individual ~~patient~~ within the preceding 72 hours, that the  
2657 criteria for involuntary inpatient placement are met. However,  
2658 in counties that have a population of fewer ~~less~~ than 50,000  
2659 ~~population~~, if the administrator certifies that a no  
2660 psychiatrist or clinical psychologist is not available to  
2661 provide the second opinion, the ~~such~~ second opinion may be  
2662 provided by a ~~licensed physician with postgraduate training and~~  
2663 ~~experience in diagnosis and treatment of mental and nervous~~  
2664 ~~disorders~~ or by a psychiatric nurse ~~as defined in s.~~  
2665 ~~394.455(23)~~. Such recommendation must ~~shall~~ be entered on an  
2666 involuntary inpatient placement certificate that authorizes,  
2667 ~~which certificate shall authorize~~ the receiving facility to  
2668 retain the individual being held ~~patient~~ pending transfer to a

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2669 treatment facility or completion of a hearing.

2670 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

2671 (a) The administrator of the facility shall file a petition  
2672 for involuntary inpatient placement in the court in the county  
2673 where the ~~individual patient~~ is located. Upon filing, the clerk  
2674 of the court shall provide copies to the department, the  
2675 individual ~~patient~~, the individual's ~~patient's~~ guardian or  
2676 representative, and the state attorney and public defender of  
2677 the judicial circuit in which the individual ~~patient~~ is located.  
2678 A ~~No~~ fee may not ~~shall~~ be charged for the filing of a petition  
2679 under this subsection.

2680 (b) A receiving or treatment facility filing a petition for  
2681 involuntary inpatient placement shall send a copy of the  
2682 petition to the Agency for Health Care Administration by the  
2683 next working day.

2684 (4) APPOINTMENT OF COUNSEL.—

2685 (a) Within 1 court working day after the filing of a  
2686 petition for involuntary inpatient placement, the court shall  
2687 appoint the public defender to represent the individual ~~person~~  
2688 who is the subject of the petition, unless the individual ~~person~~  
2689 is otherwise represented by counsel. The clerk of the court  
2690 shall immediately notify the public defender of such  
2691 appointment. Any attorney representing the individual ~~patient~~  
2692 shall have access to the individual ~~patient~~, witnesses, and  
2693 records relevant to the presentation of the individual's  
2694 ~~patient's~~ case and shall represent the interests of the  
2695 individual ~~patient~~, regardless of the source of payment to the  
2696 attorney. An attorney representing an individual in involuntary  
2697 placement proceedings shall represent the individual's expressed

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2698 desires.

2699 (b) The state attorney for the circuit in which the  
2700 individual is located shall represent the state rather than the  
2701 petitioning facility administrator as the real party in interest  
2702 in the proceeding. The state attorney shall independently  
2703 evaluate and confirm the allegations set forth in the petition  
2704 for involuntary placement. If the allegations are substantiated,  
2705 the state attorney shall vigorously prosecute the petition. If  
2706 the allegations are not substantiated, the state attorney shall  
2707 withdraw the petition. The state attorney shall be present and  
2708 actively participate in all hearings on the involuntary  
2709 placement.

2710 (5) CONTINUANCE OF HEARING.—The individual patient is  
2711 entitled, with the concurrence of the individual's patient's  
2712 counsel, to at least one continuance of the hearing. Requests  
2713 for a continuance from parties other than the individual or his  
2714 or her counsel may not be granted. The continuance shall be for  
2715 a period of up to 4 weeks. At the time the court is considering  
2716 a motion for continuance, the court shall also conduct a hearing  
2717 to consider the capacity of the individual to consent to  
2718 treatment if there is a pending petition for adjudication of  
2719 incompetence to consent to treatment. If the court finds that  
2720 the individual is not competent to consent to treatment, a  
2721 guardian advocate shall be appointed at the time the involuntary  
2722 placement hearing is continued to make mental health decisions  
2723 for the individual.

2724 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

2725 (a) ~~1.~~ The court shall hold the hearing on involuntary  
2726 inpatient placement within 5 working days after the petition is

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2727 ~~filed,~~ unless a continuance is granted.

2728 1. Except for good cause documented in the court file, the  
2729 hearing shall be held in the receiving or treatment facility  
2730 ~~county~~ where the individual patient is located. If the hearing  
2731 cannot be held in the receiving or treatment facility, it must  
2732 held in a location and shall be as convenient to the individual  
2733 ~~patient~~ as is ~~may be~~ consistent with orderly procedure and which  
2734 is shall be conducted in physical settings not likely to be  
2735 injurious to the individual's patient's condition. If the court  
2736 finds that the individual's patient's attendance at the hearing  
2737 is not consistent with his or her ~~the~~ best interests ~~of the~~  
2738 ~~patient,~~ and the individual's patient's counsel does not object,  
2739 the court may waive the presence of the individual patient from  
2740 all or any portion of the hearing. ~~The state attorney for the~~  
2741 ~~circuit in which the patient is located shall represent the~~  
2742 ~~state, rather than the petitioning facility administrator, as~~  
2743 ~~the real party in interest in the proceeding.~~

2744 2. The court may appoint a general or special magistrate to  
2745 preside at the hearing. One of the professionals who executed  
2746 the involuntary inpatient placement certificate shall be a  
2747 witness. The individual patient and the individual's patient's  
2748 guardian or representative shall be informed by the court of the  
2749 right to an independent expert examination. If the individual  
2750 ~~patient~~ cannot afford such an examination, the court shall  
2751 provide for one. The independent expert's report is ~~shall be~~  
2752 confidential and not discoverable, unless the expert is ~~to be~~  
2753 called as a witness for the individual patient at the hearing.  
2754 The testimony in the hearing must be ~~given~~ under oath, and the  
2755 proceedings must be recorded. The individual patient may refuse

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2756 to testify at the hearing.

2757 3. The court shall allow testimony from persons, including  
2758 family members, deemed by the court to be relevant regarding the  
2759 individual's prior history and how that prior history relates to  
2760 the individual's current condition.

2761 (b) If the court concludes that the individual patient  
2762 meets the criteria for involuntary inpatient placement, it shall  
2763 order that the individual patient be transferred to a treatment  
2764 facility or, if the individual patient is at a treatment  
2765 facility, that the individual patient be retained there or be  
2766 treated at any other appropriate receiving or treatment  
2767 facility, or that the individual patient receive services from a  
2768 receiving or treatment facility, on an involuntary basis, for a  
2769 ~~period of~~ up to 6 months. The order must ~~shall~~ specify the  
2770 nature and extent of the individual's patient's mental illness.  
2771 The facility shall discharge the individual ~~a patient~~ any time  
2772 the individual patient no longer meets the criteria for  
2773 involuntary inpatient placement, unless the individual patient  
2774 has transferred to voluntary status.

2775 (c) If at any time before ~~prior to~~ the conclusion of the  
2776 hearing on involuntary inpatient placement it appears to the  
2777 court that the individual person does not meet the criteria for  
2778 involuntary inpatient placement under this section, but instead  
2779 meets the criteria for involuntary outpatient placement, the  
2780 court may order the individual person evaluated for involuntary  
2781 outpatient placement pursuant to s. 394.4655. The petition and  
2782 hearing procedures set forth in s. 394.4655 shall apply. If the  
2783 individual person instead meets the criteria for involuntary  
2784 assessment, protective custody, or involuntary admission



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2785 pursuant to s. 397.675, ~~then~~ the court may order the individual  
2786 ~~person to be~~ admitted for involuntary assessment for up to a  
2787 ~~period of~~ 5 days pursuant to s. 397.6811. Thereafter, all  
2788 proceedings are ~~shall be~~ governed by chapter 397.

2789 (d) At the hearing on involuntary inpatient placement, the  
2790 court shall consider testimony and evidence regarding the  
2791 individual's ~~patient's~~ competence to consent to treatment. If  
2792 the court finds that the individual ~~patient~~ is incompetent to  
2793 consent to treatment, it shall appoint a guardian advocate as  
2794 provided in s. 394.4598.

2795 (e) The administrator of the receiving facility shall  
2796 provide a copy of the court order and adequate documentation of  
2797 an individual's ~~a patient's~~ mental illness to the administrator  
2798 of a treatment facility if the individual ~~whenever a patient~~ is  
2799 ordered for involuntary inpatient placement, whether by civil or  
2800 criminal court. The documentation must ~~shall~~ include any advance  
2801 directives made by the individual ~~patient~~, a psychiatric  
2802 evaluation of the individual ~~patient~~, and any evaluations of the  
2803 individual ~~patient~~ performed by a clinical psychologist, a  
2804 marriage and family therapist, a mental health counselor, or a  
2805 clinical social worker. The administrator of a treatment  
2806 facility may refuse admission to an individual ~~any patient~~  
2807 directed to its facilities on an involuntary basis, whether by  
2808 civil or criminal court order, who is not accompanied ~~at the~~  
2809 ~~same time~~ by adequate orders and documentation.

2810 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT  
2811 PLACEMENT.—

2812 (a) Hearings on petitions for continued involuntary  
2813 inpatient placement shall be administrative hearings and shall

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2814 be conducted in accordance with ~~the provisions of~~ s. 120.57(1),  
2815 except that an ~~any~~ order entered by an ~~the~~ administrative law  
2816 judge ~~is shall be~~ final and subject to judicial review in  
2817 accordance with s. 120.68. Orders concerning an individual  
2818 ~~patients~~ committed after successfully pleading not guilty by  
2819 reason of insanity are ~~shall be~~ governed by ~~the provisions of~~ s.  
2820 916.15.

2821 (b) If the individual patient continues to meet the  
2822 criteria for involuntary inpatient placement, the administrator  
2823 shall, before ~~prior to~~ the expiration of the period ~~during which~~  
2824 the treatment facility is authorized to retain the individual  
2825 ~~patient~~, file a petition requesting authorization for continued  
2826 involuntary inpatient placement. The request must ~~shall~~ be  
2827 accompanied by a statement from the individual's ~~patient's~~  
2828 physician or clinical psychologist justifying the request, a  
2829 brief description of the individual's ~~patient's~~ treatment during  
2830 the time he or she was involuntarily placed, and a personalized  
2831 ~~an individualized~~ plan of continued treatment. Notice of the  
2832 hearing must ~~shall~~ be provided in accordance with ~~as set forth~~  
2833 ~~in~~ s. 394.4599. If at the hearing the administrative law judge  
2834 finds that attendance at the hearing is not consistent with the  
2835 individual's best interests ~~of the patient~~, the administrative  
2836 law judge may waive the presence of the individual ~~patient~~ from  
2837 all or any portion of the hearing, unless the individual  
2838 ~~patient~~, through counsel, objects to the waiver of presence. The  
2839 testimony in the hearing must be under oath, and the proceedings  
2840 must be recorded.

2841 (c) Unless the individual patient is otherwise represented  
2842 or is ineligible, he or she shall be represented at the hearing

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2843 on the petition for continued involuntary inpatient placement by  
2844 the public defender of the circuit in which the facility is  
2845 located.

2846 (d) The Division of Administrative Hearings shall inform  
2847 the individual and his or her guardian, guardian advocate, or  
2848 representative of the right to an independent expert  
2849 examination. If the individual cannot afford such an  
2850 examination, the administrative law judge shall appoint one and  
2851 the county of the individual's residence shall be billed for the  
2852 cost of the examination.

2853 (e)~~(d)~~ If at a hearing it is shown that the individual  
2854 ~~patient~~ continues to meet the criteria for involuntary inpatient  
2855 placement, the administrative law judge shall sign the order for  
2856 continued involuntary inpatient placement for a period of up to  
2857 ~~not to exceed~~ 6 months. The same procedure must ~~shall~~ be  
2858 repeated before ~~prior to~~ the expiration of each additional  
2859 period the individual ~~patient~~ is retained.

2860 (f)~~(e)~~ If continued involuntary inpatient placement is  
2861 necessary for an individual ~~a patient~~ admitted while serving a  
2862 criminal sentence, but whose sentence is about to expire, or for  
2863 a minor ~~patient~~ involuntarily placed ~~while a minor~~ but who is  
2864 about to reach the age of 18, the administrator shall petition  
2865 the administrative law judge for an order authorizing continued  
2866 involuntary inpatient placement.

2867 (g)~~(f)~~ If the individual ~~patient~~ has been previously found  
2868 incompetent to consent to treatment, the administrative law  
2869 judge shall consider testimony and evidence regarding the  
2870 individual's ~~patient's~~ competence. If the administrative law  
2871 judge finds evidence that the individual ~~patient~~ is now

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2872 competent to consent to treatment, the ~~administrative law~~ judge  
2873 may issue a recommended order to the court that found the  
2874 individual patient incompetent to consent to treatment that the  
2875 individual's patient's competence be restored and that any  
2876 guardian advocate previously appointed be discharged.

2877 (8) RETURN TO FACILITY OF PATIENTS.—If an individual held  
2878 ~~When a patient~~ at a treatment facility leaves the facility  
2879 without authorization, the administrator may authorize a search  
2880 for, ~~the patient~~ and the return of, the individual patient to  
2881 the facility. The administrator may request the assistance of a  
2882 law enforcement agency ~~in the search for and return of the~~  
2883 ~~patient~~.

2884 Section 23. Section 394.46715, Florida Statutes, is amended  
2885 to read:

2886 394.46715 Rulemaking authority.—The department may adopt  
2887 rules to administer ~~of Children and Family Services shall have~~  
2888 ~~rulemaking authority to implement the provisions of~~ ss. 394.455,  
2889 394.4598, 394.4615, 394.463, 394.4655, and 394.467 ~~as amended or~~  
2890 ~~created by this act~~. These rules are ~~shall be~~ for the purpose of  
2891 protecting the health, safety, and well-being of individuals  
2892 ~~persons~~ examined, treated, or placed under this part ~~act~~.

2893 Section 24. Section 394.4672, Florida Statutes, is amended  
2894 to read:

2895 394.4672 Procedure for placement of veteran with federal  
2896 agency.—

2897 (1) If a ~~Whenever it is determined by the court determines~~  
2898 that an individual a person meets the criteria for involuntary  
2899 placement and he or she ~~it appears that such person~~ is eligible  
2900 for care or treatment by the United States Department of

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2901 Veterans Affairs or other agency of the United States  
2902 Government, the court, upon receipt of a certificate from the  
2903 United States Department of Veterans Affairs or such other  
2904 agency showing that facilities are available and that the  
2905 individual ~~person~~ is eligible for care or treatment therein, may  
2906 place that individual ~~person~~ with the United States Department  
2907 of Veterans Affairs or other federal agency. The individual  
2908 ~~person whose placement is sought~~ shall be personally served with  
2909 notice of the pending placement proceeding in the manner as  
2910 provided in this part. ~~and nothing in~~ This section does not  
2911 ~~shall~~ affect the individual's ~~his or her~~ right to appear and be  
2912 heard in the proceeding. Upon placement, the individual is  
2913 ~~person shall be~~ subject to the ~~rules and~~ regulations of the  
2914 United States Department of Veterans Affairs or other federal  
2915 agency.

2916 (2) The judgment or order of placement issued by a court of  
2917 competent jurisdiction of another state or of the District of  
2918 Columbia that places an individual, ~~placing a person~~ with the  
2919 United States Department of Veterans Affairs or other federal  
2920 agency for care or treatment has, ~~shall have~~ the same force and  
2921 effect in this state as in the jurisdiction of the court  
2922 entering the judgment or making the order. ~~and~~ The courts of  
2923 the placing state or of the District of Columbia shall retain ~~be~~  
2924 ~~deemed to have retained~~ jurisdiction over ~~of~~ the individual  
2925 ~~person~~ so placed. Consent is hereby given to the application of  
2926 the law of the placing state or district with respect to the  
2927 authority of the chief officer of any facility of the United  
2928 States Department of Veterans Affairs or other federal agency  
2929 operated in this state to retain custody or to transfer, parole,

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2930 or discharge the individual ~~person~~.

2931 (3) Upon receipt of a certificate of the United States  
 2932 Department of Veterans Affairs or another ~~such other~~ federal  
 2933 agency that facilities are available for the care or treatment  
 2934 individuals who have mental illness ~~of mentally ill persons~~ and  
 2935 that the individual ~~person~~ is eligible for that care or  
 2936 treatment, the administrator of the receiving or treatment  
 2937 facility may ~~cause the~~ transfer ~~of~~ that individual ~~person~~ to the  
 2938 United States Department of Veterans Affairs or other federal  
 2939 agency. Upon ~~effecting~~ such transfer, the committing court shall  
 2940 be notified by the transferring agency. An individual may not ~~No~~  
 2941 ~~person shall be transferred to the United States Department of~~  
 2942 ~~Veterans Affairs or other federal agency~~ if he or she is  
 2943 confined pursuant to the conviction of any felony or misdemeanor  
 2944 or if he or she has been acquitted of the charge solely on the  
 2945 ground of insanity, unless prior to transfer the court placing  
 2946 the individual ~~such person~~ enters an order for the transfer  
 2947 after appropriate motion and hearing and without objection by  
 2948 the United States Department of Veterans Affairs.

2949 (4) An individual ~~Any person~~ transferred as provided in  
 2950 this section shall be deemed to be placed with the United States  
 2951 Department of Veterans Affairs or other federal agency pursuant  
 2952 to the original placement.

2953 Section 25. Section 394.4674, Florida Statutes, is  
 2954 repealed.

2955 Section 26. Section 394.4685, Florida Statutes, is amended  
 2956 to read:

2957 394.4685 Transfer between ~~of patients among~~ facilities.—

2958 (1) TRANSFER BETWEEN PUBLIC FACILITIES.—

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2959 (a) An individual ~~A patient~~ who has been admitted to a  
2960 public receiving facility, or his or her ~~the~~ family member,  
2961 guardian, or guardian advocate ~~of such patient~~, may request the  
2962 transfer of the individual ~~patient~~ to another public receiving  
2963 facility. An individual ~~A patient~~ who has been admitted to a  
2964 public treatment facility, or his or her ~~the~~ family member,  
2965 guardian, or guardian advocate ~~of such patient~~, may request the  
2966 transfer of the individual ~~patient~~ to another public treatment  
2967 facility. Depending on the medical treatment or mental health  
2968 treatment needs of the individual ~~patient~~ and the availability  
2969 of appropriate facility resources, the individual ~~patient~~ may be  
2970 transferred at the discretion of the department. If the  
2971 department approves the transfer of an individual on involuntary  
2972 status ~~patient~~, notice in accordance with ~~according to the~~  
2973 ~~provisions of~~ s. 394.4599 must ~~shall~~ be given before ~~prior to~~  
2974 the transfer by the transferring facility. The department shall  
2975 respond to the request for transfer within 2 working days after  
2976 receipt of the request by the facility administrator.

2977 (b) If ~~When~~ required by the medical treatment or mental  
2978 health treatment needs of the individual ~~patient~~ or the  
2979 efficient use ~~utilization~~ of a public receiving or public  
2980 treatment facility, an individual ~~a patient~~ may be transferred  
2981 from one receiving facility to another, or one treatment  
2982 facility to another, at the department's discretion, or, with  
2983 the express and informed consent of the individual ~~patient~~ or  
2984 the individual's ~~patient's~~ guardian or guardian advocate, to a  
2985 facility in another state. Notice in accordance with ~~according~~  
2986 ~~to the provisions of~~ s. 394.4599 must ~~shall~~ be given before  
2987 ~~prior to~~ the transfer by the transferring facility. If prior

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2988 notice is not possible, notice of the transfer must ~~shall~~ be  
2989 provided as soon as practicable after the transfer.

2990 (2) TRANSFER FROM PUBLIC TO PRIVATE FACILITIES.—

2991 (a) An individual ~~A patient~~ who has been admitted to a  
2992 public receiving or public treatment facility and has requested,  
2993 ~~either~~ personally or through his or her guardian or guardian  
2994 advocate, and is able to pay for treatment in a private facility  
2995 shall be transferred at the individual's ~~patient's~~ expense to a  
2996 private facility upon acceptance of the individual ~~patient~~ by  
2997 the private facility.

2998 (b) A public facility may request the transfer of an  
2999 individual from the facility to a private facility, and the  
3000 individual may be transferred upon acceptance of the individual  
3001 by the private facility.

3002 (3) TRANSFER FROM PRIVATE TO PUBLIC FACILITIES.—

3003 (a) An individual ~~A patient~~ or his or her ~~the patient's~~  
3004 guardian or guardian advocate may request the transfer of the  
3005 individual ~~patient~~ from a private to a public facility, and the  
3006 individual ~~patient~~ may be so transferred upon acceptance of the  
3007 individual ~~patient~~ by the public facility.

3008 (b) A private facility may request the transfer of an  
3009 individual ~~a patient~~ from the facility to a public facility, and  
3010 the individual ~~patient~~ may be ~~so~~ transferred upon acceptance of  
3011 the individual ~~patient~~ by the public facility. The cost of such  
3012 transfer is ~~shall be~~ the responsibility of the transferring  
3013 facility.

3014 (c) A public facility must respond to a request for the  
3015 transfer of an individual ~~a patient~~ within 2 working days after  
3016 receipt of the request.



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3017 (4) TRANSFER BETWEEN PRIVATE FACILITIES.—An individual  
3018 being held ~~A patient~~ in a private facility or his or her ~~the~~  
3019 ~~patient's~~ guardian or guardian advocate may request the transfer  
3020 of the individual patient to another private facility at any  
3021 time, and the individual patient shall be transferred upon  
3022 acceptance of the individual patient by the facility to which  
3023 transfer is sought.

3024 Section 27. Section 394.469, Florida Statutes, is amended  
3025 to read:

3026 394.469 Discharge of involuntary placements ~~patients~~.—

3027 (1) POWER TO DISCHARGE.—At any time an individual ~~a patient~~  
3028 is found to no longer meet the criteria for involuntary  
3029 placement, the administrator shall:

3030 (a) Discharge the individual patient, ~~unless the patient is~~  
3031 ~~under a criminal charge, in which case the patient shall be~~  
3032 ~~transferred to the custody of the appropriate law enforcement~~  
3033 ~~officer;~~

3034 (b) Transfer the individual patient to voluntary status on  
3035 his or her own authority or at the individual's ~~patient's~~  
3036 request, unless the individual patient is under criminal charge  
3037 or adjudicated incapacitated; or

3038 (c) Return an individual released from a receiving or  
3039 treatment facility on voluntary or involuntary status who is  
3040 charged with a crime to the custody of a law enforcement officer  
3041 ~~Place an improved patient, except a patient under a criminal~~  
3042 ~~charge, on convalescent status in the care of a community~~  
3043 ~~facility.~~

3044 (2) NOTICE.—Notice of discharge or transfer of an  
3045 individual must be provided in accordance with ~~a patient shall~~

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3046 ~~be given as provided in s. 394.4599.~~

3047 Section 28. Section 394.473, Florida Statutes, is amended  
3048 to read:

3049 394.473 Attorney's fee; expert witness fee.—

3050 (1) ~~In the case of an indigent person for whom~~ An attorney  
3051 ~~is~~ appointed to represent an indigent individual pursuant to the  
3052 provisions of this part, ~~the attorney~~ shall be compensated by  
3053 the state pursuant to s. 27.5304. ~~In the case of an indigent~~  
3054 ~~person,~~ The court may appoint a public defender for an indigent  
3055 individual. The public defender shall receive no additional  
3056 compensation other than that usually paid his or her office.

3057 (2) ~~An~~ ~~In the case of an indigent person for whom~~ expert  
3058 whose testimony is required for an indigent individual in a  
3059 court hearing pursuant to the provisions of this part ~~act,~~ ~~the~~  
3060 ~~expert,~~ except one who is classified as a full-time employee of  
3061 the state or who is receiving remuneration from the state for  
3062 his or her time in attendance at the hearing, shall be  
3063 compensated by the state pursuant to s. 27.5304.

3064 Section 29. Section 394.475, Florida Statutes, is amended  
3065 to read:

3066 394.475 Acceptance, examination, and involuntary placement  
3067 ~~of Florida residents~~ from out-of-state mental health  
3068 authorities.—

3069 (1) Upon the request of the state mental health authority  
3070 of another state, the department may ~~is authorized to~~ accept an  
3071 individual as a patient, for up to ~~a period of not more than~~ 15  
3072 days, ~~a person~~ who is and has been a bona fide resident of this  
3073 state for at least ~~a period of not less than~~ 1 year.

3074 (2) An individual ~~Any person~~ received pursuant to

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3075 subsection (1) shall be examined by the staff of the state  
3076 facility where the individual ~~such patient~~ has been admitted  
3077 ~~accepted, which examination shall be completed~~ during the 15-day  
3078 period.

3079 (3) If, upon examination, the individual ~~such a person~~  
3080 requires continued involuntary placement, a petition for a  
3081 hearing regarding involuntary placement shall be filed with the  
3082 court of the county where wherein the treatment facility  
3083 receiving the individual ~~patient~~ is located or the county where  
3084 the individual ~~patient~~ is a resident.

3085 (4) During the pendency of the examination period and the  
3086 pendency of the involuntary placement proceedings, an individual  
3087 ~~such person~~ may continue to be held in the treatment facility  
3088 unless the court having jurisdiction enters an order to the  
3089 contrary.

3090 Section 30. Section 394.4785, Florida Statutes, is amended  
3091 to read:

3092 394.4785 Children and adolescents; admission and placement  
3093 in mental health facilities.-

3094 (1) A child or adolescent as defined in s. 394.492 may not  
3095 be admitted to a state-owned or state-operated mental health  
3096 treatment facility. A child may be admitted pursuant to s.  
3097 394.4625 or s. 394.467 to a crisis stabilization unit or a  
3098 residential treatment center licensed under this chapter or a  
3099 hospital licensed under chapter 395. The treatment center, unit,  
3100 or hospital must provide the least restrictive available  
3101 treatment that is appropriate to the ~~individual~~ needs of the  
3102 child or adolescent and must adhere to the guiding principles,  
3103 system of care, and service planning provisions of ~~contained in~~

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3104 part III of this chapter.

3105 (2) A child or adolescent, as defined in s. 394.492, who is  
3106 younger than person under the age of 14 years of age and who is  
3107 admitted to a any hospital ~~licensed pursuant to chapter 395~~ may  
3108 not be admitted to a bed in a room or ward with an adult ~~patient~~  
3109 in a mental health unit or share common areas with an adult  
3110 ~~patient~~ in a mental health unit. However, an adolescent ~~a person~~  
3111 14 years of age or older may be admitted to a bed in a room or  
3112 ward in the mental health unit with an adult if the admitting  
3113 physician documents in the case record that such placement is  
3114 medically indicated or for reasons of safety. Such placement  
3115 shall be reviewed by the attending physician or a designee or  
3116 on-call physician each day and documented in the clinical case  
3117 record.

3118 Section 31. Subsection (2) of section 394.4786, Florida  
3119 Statutes, is amended to read:

3120 394.4786 Intent.—

3121 (2) Further, the Legislature intends that a specialty  
3122 psychiatric hospital that provides health care to specified  
3123 indigent individuals ~~patients~~ be eligible for reimbursement up  
3124 to the amount that hospital contributed to the Public Medical  
3125 Assistance Trust Fund in the previous fiscal year.

3126 Section 32. Subsections (2) and (3) of section 394.47865,  
3127 Florida Statutes, are amended to read:

3128 394.47865 South Florida State Hospital; privatization.—

3129 (2) The contractor shall operate South Florida State  
3130 Hospital as a mental health treatment facility that serves  
3131 voluntarily and involuntarily committed indigent individuals 18  
3132 years of age or older ~~adults~~ who meet the criteria of this part

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3133 ~~I of this chapter~~ and who reside in the South Florida State  
3134 Hospital service area.

3135 (a) South Florida State Hospital shall remain a participant  
3136 in the mental health disproportionate share program so long as  
3137 such individuals ~~the residents~~ receive eligible services.

3138 (b) The department and the contractor shall ensure that the  
3139 treatment facility is operated as a part of a total continuum of  
3140 care for individuals ~~persons~~ who are mentally ill. The  
3141 contractor shall have as its primary goal for the treatment  
3142 facility to effectively treat and assist individuals held at the  
3143 facility ~~residents~~ to return to the community as quickly as  
3144 possible.

3145 (3) (a) Current South Florida State Hospital employees who  
3146 are affected by the privatization shall be given first  
3147 preference for continued employment by the contractor. The  
3148 department shall make reasonable efforts to find suitable job  
3149 placements for employees who wish to remain within the state  
3150 Career Service System.

3151 (b) Any savings that result from the privatization of South  
3152 Florida State Hospital shall be directed to the department's  
3153 service districts 9, 10, and 11 for the delivery of community  
3154 mental health services.

3155 Section 33. Section 394.4787, Florida Statutes, is amended  
3156 to read:

3157 394.4787 Definitions; ~~ss. 394.4786, 394.4787, 394.4788, and~~  
3158 ~~394.4789.~~ As used in sections 394.4786-394.4789, the term ~~this~~  
3159 section and ss. 394.4786, 394.4788, and 394.4789:

3160 (1) "Acute mental health services" means mental health  
3161 services provided through inpatient hospitalization.

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3162 (2) "Agency" means the Agency for Health Care  
3163 Administration.

3164 (3) "Charity care" means that portion of hospital charges  
3165 for care provided to an individual ~~a patient~~ whose family income  
3166 for the 12 months preceding the determination is equal to or  
3167 below 150 percent of the current federal nonfarm poverty  
3168 guideline or the amount of hospital charges due from the  
3169 individual ~~patient~~ which exceeds 25 percent of the annual family  
3170 income and for which there is no compensation. Charity care does  
3171 ~~shall~~ not include administrative or courtesy discounts,  
3172 contractual allowances to third party payors, or failure of a  
3173 hospital to collect full charges due to partial payment by  
3174 governmental programs.

3175 (4) "Indigent" means an individual whose financial status  
3176 would qualify him or her for charity care.

3177 (5) "Operating expense" means all common and accepted costs  
3178 appropriate in developing and maintaining the operating of the  
3179 patient care facility and its activities.

3180 (6) "PMATF" means the Public Medical Assistance Trust Fund.

3181 (7) "Specialty psychiatric hospital" has the same meaning  
3182 as in ~~means a hospital licensed by the agency pursuant to s.~~  
3183 395.002(28), and includes facilities licensed under ~~and~~ part II  
3184 of chapter 408 as a specialty psychiatric hospitals ~~hospital~~.

3185 Section 34. Subsections (1), (2), and (6) of section  
3186 394.4788, Florida Statutes, are amended to read:

3187 394.4788 Use of certain PMATF funds for the purchase of  
3188 acute care mental health services.—

3189 (1) A hospital may be eligible to be reimbursed an amount  
3190 no greater than the hospital's previous year contribution to the

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3191 PMATF for acute mental health services provided to indigent  
3192 mentally ill individuals ~~persons~~ who have been determined by the  
3193 agency or its agent to require such treatment and who:

3194 (a) Do not meet Medicaid eligibility criteria, unless the  
3195 agency makes a referral for a Medicaid eligible individual  
3196 ~~patient~~ pursuant to s. 394.4789;

3197 (b) Meet the criteria for mental illness under this part;  
3198 and

3199 (c) Meet the definition of charity care.

3200 (2) The agency shall annually calculate a per diem  
3201 reimbursement rate for each specialty psychiatric hospital to be  
3202 paid to the specialty psychiatric hospitals for the provision of  
3203 acute mental health services provided to indigent mentally ill  
3204 individual's ~~patients~~ who meet the criteria in subsection (1).  
3205 After the first rate period, providers shall be notified of new  
3206 reimbursement rates for each new state fiscal year by June 1.  
3207 The new reimbursement rates ~~shall~~ commence on July 1.

3208 (6) Hospitals that agree to participate in the program set  
3209 forth in this section and ss. 394.4786, 394.4787, and 394.4789  
3210 shall agree that payment from the PMATF is payment in full for  
3211 all individuals ~~patients~~ for which reimbursement is received  
3212 under this section and ss. 394.4786, 394.4787, and 394.4789,  
3213 until the funds for this program are no longer available.

3214 Section 35. Section 394.4789, Florida Statutes, is amended  
3215 to read:

3216 394.4789 Establishment of referral process and eligibility  
3217 determination.—

3218 (1) The department shall adopt by rule a referral process  
3219 that provides ~~which shall provide~~ each participating specialty

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3220 psychiatric hospital with a system for accepting ~~into the~~  
 3221 ~~hospital's care~~ indigent mentally ill individuals ~~persons~~  
 3222 referred by the department. It is the intent of the Legislature  
 3223 that a hospital that ~~which~~ seeks payment under s. 394.4788 shall  
 3224 accept referrals from the department. However, a hospital may  
 3225 ~~shall have the right to~~ refuse the admission of an individual ~~a~~  
 3226 ~~patient~~ due to lack of functional bed space or lack of services  
 3227 appropriate to a patient's specific treatment and is not ~~ne~~  
 3228 ~~hospital shall be~~ required to accept referrals if the costs for  
 3229 treating the referred patient are no longer reimbursable because  
 3230 the hospital has reached the level of contribution made to the  
 3231 PMATF in the previous fiscal year. Furthermore, a hospital that  
 3232 does not seek compensation for indigent mentally ill patients  
 3233 under the provisions of this part is ~~act shall~~ not be obliged to  
 3234 accept department referrals, notwithstanding any agreements it  
 3235 may have entered into with the department. The right of refusal  
 3236 in this subsection does ~~shall~~ not affect a hospital's  
 3237 requirement to provide emergency care pursuant to s. 395.1041 or  
 3238 other state or federal law ~~statutory requirements related to the~~  
 3239 ~~provision of emergency care.~~

3240 (2) The department shall adopt by rule a patient  
 3241 eligibility form and is ~~shall be~~ responsible for eligibility  
 3242 determination. However, the department may contract with  
 3243 participating psychiatric hospitals for eligibility  
 3244 determination. The eligibility form must ~~shall~~ provide the  
 3245 mechanism for determining a patient's eligibility according to  
 3246 the requirements of s. 394.4788(1).

3247 (a) A specialty psychiatric hospital is ~~shall be~~ eligible  
 3248 for reimbursement only if ~~when~~ an eligibility form has been



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3249 completed for each indigent mentally ill individual ~~person~~ for  
3250 whom reimbursement is sought.

3251 (b) As part of eligibility determination, every effort  
3252 shall be made by the hospital to determine if any third party  
3253 insurance coverage is available.

3254 Section 36. Paragraph (a) of subsection (3) of section  
3255 39.407, Florida Statutes, is amended to read:

3256 39.407 Medical, psychiatric, and psychological examination  
3257 and treatment of child; physical, mental, or substance abuse  
3258 examination of person with or requesting child custody.—

3259 (3) (a) 1. Except as ~~otherwise~~ provided in subparagraph (b) 1.  
3260 or paragraph (e), before the department provides psychotropic  
3261 medications to a child in its custody, the prescribing physician  
3262 shall attempt to obtain express and informed consent, as defined  
3263 in s. 394.455 ~~394.455(9)~~ and as described in s. 394.459(3)  
3264 ~~394.459(3)(a)~~, from the child's parent or legal guardian. The  
3265 department shall ~~must take steps necessary to~~ facilitate the  
3266 inclusion of the parent in the child's consultation with the  
3267 physician. However, if the parental rights of the parent have  
3268 been terminated, the parent's location or identity is unknown or  
3269 cannot reasonably be ascertained, or the parent declines to give  
3270 express and informed consent, the department may, after  
3271 consultation with the prescribing physician, seek court  
3272 authorization to provide the psychotropic medications to the  
3273 child. Unless parental rights have been terminated and if it is  
3274 possible to do so, the department shall continue to involve the  
3275 parent in the decisionmaking process regarding the provision of  
3276 psychotropic medications. If, at any time, a parent whose  
3277 parental rights have not been terminated provides express and

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3278 informed consent to the provision of a psychotropic medication,  
 3279 the requirements of this section that the department seek court  
 3280 authorization do not apply to that medication until such time as  
 3281 the parent no longer consents.

3282 2. If ~~Any time~~ the department seeks a medical evaluation to  
 3283 determine the need to initiate or continue a psychotropic  
 3284 medication for a child, the department must provide to the  
 3285 evaluating physician all pertinent medical information known to  
 3286 the department concerning that child.

3287 Section 37. Subsection (3) of section 394.495, Florida  
 3288 Statutes, is amended to read:

3289 394.495 Child and adolescent mental health system of care;  
 3290 programs and services.—

3291 (3) Assessments shall ~~must~~ be performed by:

3292 (a) A clinical psychologist, clinical social worker,  
 3293 physician, psychiatric nurse, or psychiatrist ~~professional~~ as  
 3294 defined in s. 394.455 ~~394.455(2), (4), (21), (23), or (24);~~

3295 (b) A professional licensed under chapter 491; or

3296 (c) A person who is under the direct supervision of a  
 3297 professional listed in paragraph (a) or paragraph (b) ~~as defined~~  
 3298 ~~in s. 394.455(2), (4), (21), (23), or (24) or a professional~~  
 3299 ~~licensed under chapter 491.~~

3300  
 3301 The department shall adopt by rule statewide standards for  
 3302 mental health assessments, which are ~~must be~~ based on current  
 3303 relevant professional and accreditation standards.

3304 Section 38. Subsection (6) of section 394.496, Florida  
 3305 Statutes, is amended to read:

3306 394.496 Service planning.—

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3307 (6) A clinical psychologist, clinical social worker,  
3308 physician, psychiatric nurse, or psychiatrist ~~professional~~ as  
3309 defined in s. 394.455, 394.455(2), (4), (21), (23), or (24) or a  
3310 professional licensed under chapter 491, must be included among  
3311 those persons developing the services plan.

3312 Section 39. Subsection (6) of section 394.9085, Florida  
3313 Statutes, is amended to read:

3314 394.9085 Behavioral provider liability.—

3315 (6) For purposes of this section, the terms "detoxification  
3316 program," "addictions receiving facility," and "receiving  
3317 facility" have the same meanings as those provided in ss.  
3318 397.311(18) (b), 397.311(18) (a), and 394.455 ~~394.455(26)~~,  
3319 respectively.

3320 Section 40. Paragraph (d) of subsection (1) of section  
3321 419.001, Florida Statutes, is amended to read:

3322 419.001 Site selection of community residential homes.—

3323 (1) For the purposes of this section, the following  
3324 definitions shall apply:

3325 (d) "Resident" means any of the following: a frail elder as  
3326 defined in s. 429.65; a physically disabled or handicapped  
3327 person as defined in s. 760.22(7) (a); a developmentally disabled  
3328 person as defined in s. 393.063; a nondangerous individual who  
3329 has a mental illness as defined in s. 394.455 ~~mentally ill~~  
3330 ~~person as defined in s. 394.455(18)~~; or a child who is found to  
3331 be dependent as defined in s. 39.01 or s. 984.03, or a child in  
3332 need of services as defined in s. 984.03 or s. 985.03.

3333 Section 41. Subsection (7) of section 744.704, Florida  
3334 Statutes, is amended to read:

3335 744.704 Powers and duties.—

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3336           (7) A public guardian may ~~shall~~ not commit a ward to a  
3337 mental health treatment facility, as defined in s. 394.455  
3338 ~~394.455(32)~~, without an involuntary placement proceeding as  
3339 provided by law.

3340           Section 42. This act shall take effect July 1, 2009.