

By Senator Fasano

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1                                   A bill to be entitled  
2       An act relating to mental health; creating s.  
3       394.4656, F.S.; creating the Community Mental Health  
4       and Substance Abuse Treatment and Crime Reduction Act;  
5       providing legislative findings and intent; providing  
6       goals for the community mental health and substance  
7       abuse forensic treatment system; defining terms;  
8       requiring the Department of Children and Family  
9       Services, in consultation with the Agency for Health  
10      Care Administration, to develop and implement a  
11      community mental health and substance abuse forensic  
12      treatment system; providing initiatives and strategies  
13      for the community forensic system; detailing the  
14      services to be provided in the community forensic  
15      system; setting forth the eligibility criteria for  
16      treatment in the system; authorizing the department,  
17      within available resources, to develop a continuum of  
18      services to implement the Community Mental Health and  
19      Substance Abuse Treatment and Crime Reduction Act;  
20      amending s. 394.655, F.S.; providing additional  
21      functions of the Criminal Justice, Mental Health, and  
22      Substance Abuse Policy Council; amending s. 394.656,  
23      F.S.; requiring the department and the agency to  
24      cooperate with counties that receive grant funding  
25      under the Criminal Justice, Mental Health, and  
26      Substance Abuse Reinvestment Grant Program; amending  
27      s. 394.657, F.S.; requiring county planning councils  
28      to consult with local governmental bodies when  
29      planning or implementing the Community Mental Health

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30 and Substance Abuse Treatment and Crime Reduction Act;  
31 amending s. 409.906, F.S.; adding home and community-  
32 based mental health services to the optional Medicaid  
33 services offered by the state Medicaid program;  
34 amending s. 409.912, F.S.; exempting persons who have  
35 serious and persistent mental illnesses and who are  
36 receiving services under the Community Mental Health  
37 and Substance Abuse Treatment and Crime Reduction Act  
38 from MediPass and managed care plans; amending s.  
39 916.106, F.S.; defining the terms "acquittee" and  
40 "conditional releasee"; amending s. 916.107, F.S.;  
41 specifying treatment procedures for a client or  
42 conditional releasee admitted to a state forensic  
43 mental health treatment facility who lacks the  
44 capacity to make an informed decision regarding mental  
45 health treatment at the time of admission; amending s.  
46 916.111, F.S.; providing for forensic evaluator  
47 training for mental health experts; amending s.  
48 916.115, F.S.; providing, to the extent possible, that  
49 court-appointed experts be a psychiatrist or a  
50 licensed psychologist; requiring the Department of  
51 Children and Family Services to maintain and annually  
52 provide the courts with a forensic evaluator registry;  
53 amending s. 916.13, F.S.; providing timeframes for  
54 competency hearings to be held; amending s. 916.15,  
55 F.S.; providing timeframes for commitment hearings to  
56 be held; amending s. 916.17, F.S.; requiring that  
57 certain defendants or acquittees be placed in a  
58 community residential facility for competency

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59 restoration in demonstration areas established under  
60 the Community Mental Health and Substance Abuse  
61 Treatment and Crime Reduction Act; providing  
62 exceptions; amending s. 985.19, F.S.; authorizing the  
63 Department of Children and Family Services to develop  
64 or contract for the training of mental health  
65 professionals performing forensic evaluations, for  
66 standardizing the protocols, procedures, criteria  
67 used, and evaluating the program; revising  
68 requirements relating to the forensic evaluator  
69 training program that appointed experts must complete;  
70 providing an effective date.

71  
72 Be It Enacted by the Legislature of the State of Florida:

73  
74 Section 1. Section 394.4656, Florida Statutes, is created  
75 to read:

76 394.4656 Community Mental Health and Substance Abuse  
77 Treatment and Crime Reduction Act.—

78 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
79 that many jail inmates who have serious mental illnesses and who  
80 are committed to state forensic mental health treatment  
81 facilities for competency restoration could be served more  
82 effectively and at less cost in community-based alternative  
83 programs. The Legislature further finds that many people who  
84 have serious mental illnesses and who have been discharged from  
85 state forensic mental health treatment facilities could avoid  
86 recidivism to the criminal justice and forensic mental health  
87 systems if they received specialized treatment in the community.

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88 Therefore, it is the intent of the Legislature to create the  
89 Community Mental Health and Substance Abuse Treatment and Crime  
90 Reduction Act to serve individuals who have mental illnesses or  
91 co-occurring mental illnesses and substance abuse disorders and  
92 who are involved in or at risk of entering state forensic mental  
93 health treatment facilities, prisons, jails, juvenile justice  
94 centers, or state civil mental health treatment facilities.

95 (2) GOALS.—The goals of the community mental health and  
96 substance abuse forensic treatment system are to:

97 (a) Ensure public safety.

98 (b) Ensure that services to restore forensic competency are  
99 provided in the least restrictive, least costly, and most  
100 effective environment.

101 (c) Provide competency-restoration services in the  
102 community if appropriate, based on consideration of public  
103 safety, needs of the individual, and available resources.

104 (d) Reduce admissions for competency restoration to state  
105 forensic mental health treatment facilities.

106 (e) Reduce rates of arrest, incarceration, and  
107 reincarceration.

108 (f) Increase outreach and services to individuals at risk  
109 for involvement in the criminal justice, juvenile justice, or  
110 forensic mental health systems.

111 (g) Support collaboration among state and local  
112 stakeholders, including law enforcement agencies, courts, state  
113 agencies, jails, county governments, service providers,  
114 individuals with mental illnesses or co-occurring mental  
115 illnesses and substance abuse disorders, family members,  
116 advocates, and other community members.

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117 (3) DEFINITIONS.—As used in this section, the term:

118 (a) "Agency" means the Agency for Health Care  
119 Administration.

120 (b) "Best practices" means treatment services that  
121 incorporate the most effective and acceptable interventions  
122 available in the care and treatment of individuals who are  
123 diagnosed as having a mental illness or a co-occurring mental  
124 illness and substance abuse disorder.

125 (c) "Community forensic system" means the community mental  
126 health and substance abuse forensic treatment system, including  
127 the comprehensive set of services and supports provided to  
128 individuals involved in or at risk of becoming involved in the  
129 criminal justice system.

130 (d) "Community residential facility" means a community  
131 based residential treatment setting licensed by the agency under  
132 s. 394.875 or s. 429.075, or by the department under chapter  
133 397.

134 (e) "Evidence-based practices" means interventions and  
135 strategies that, based on the best available empirical research,  
136 demonstrate effective and efficient outcomes in the care and  
137 treatment of individuals who are diagnosed as having mental  
138 illnesses or co-occurring mental illnesses and substance abuse  
139 disorders.

140 (f) "Forensic intensive care management" means activities  
141 addressing the comprehensive psychiatric, social, and support  
142 needs of individuals who are diagnosed as having serious and  
143 persistent mental illnesses, co-occurring disorders, or severe  
144 emotional disturbances, and who are involved in the criminal  
145 justice system and receiving services under this section.

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146 Activities include, but are not limited to, service planning,  
147 service coordination, monitoring, and assistance with accessing  
148 federal, state, and local benefits necessary to sustain a person  
149 in the community.

150 (g) "Geographic area" means a county, circuit, regional, or  
151 multiregional area in this state.

152 (4) SERVICE SYSTEM.—The department, in consultation with  
153 the agency, may develop and implement a community mental health  
154 and substance abuse forensic treatment system. The system must  
155 build on local community diversion and reentry initiatives and  
156 strategies that are consistent with those identified and  
157 supported under s. 394.658(1), or with geographic areas that  
158 have a community-based diversion program.

159 (a) The community forensic system initiatives and  
160 strategies may include, but are not limited to:

161 1. Mental health courts.

162 2. Diversion programs.

163 3. Alternative prosecution and sentencing techniques.

164 4. Crisis intervention teams.

165 5. Specialized training for criminal justice, juvenile  
166 justice, and treatment services professionals.

167 6. Specialized probation officers at the state and county  
168 levels to serve individuals under correctional control in the  
169 community.

170 7. Collateral services such as supported, transitional, and  
171 permanent housing and supported employment.

172 8. Reentry services to create or expand mental health and  
173 co-occurring treatment and supports for affected individuals.

174 (b) The community forensic system must include a

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- 175 comprehensive continuum of care and services that use evidence-  
176 based and best practices to address co-occurring mental health  
177 and substance abuse disorders, including the following minimum  
178 services and elements:
- 179 1. Competency-restoration and treatment services provided  
180 in a variety of settings from least restrictive to progressively  
181 more restrictive settings.
  - 182 2. Forensic intensive care management.
  - 183 3. Supported housing.
  - 184 4. Supported employment.
  - 185 5. Medication management.
  - 186 6. Trauma-specific services for treatment of the effects of  
187 sexual, physical, and emotional abuse or trauma experienced by  
188 individuals who have mental illnesses and are involved in the  
189 criminal justice system.
  - 190 7. Residential services to address crisis episodes and  
191 short-term residential treatment.
  - 192 8. Treatment for co-occurring mental health and substance  
193 abuse disorders.
  - 194 9. Outreach and education for individuals and their  
195 families who are at risk of further involvement with the justice  
196 system.
  - 197 10. Involuntary outpatient placement for individuals  
198 meeting the criteria as provided under s. 394.4655 and  
199 conditional release for individuals adjudicated incompetent to  
200 proceed due to mental illness or not guilty by reason of  
201 insanity as provided under s. 916.17.
  - 202 11. Secure residential placement for initial service  
203 delivery and stabilization.

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204 12. Other services or supports as identified.

205 (5) ELIGIBILITY.—Initial implementation is limited to  
206 adults who are adjudicated incompetent to proceed or not guilty  
207 by reason of insanity under chapter 916, whose current most  
208 serious charge is a felony of the third degree or a felony of  
209 the second degree if the felony did not involve violence, who  
210 meet public safety criteria established by the court and  
211 treatability criteria established by the department for  
212 placement in a community setting, and who otherwise would be  
213 admitted to a state mental health treatment facility. Contingent  
214 upon legislative approval, the department may serve:

215 (a) Adults who experience serious and persistent mental  
216 illnesses reentering the community from state prisons.

217 (b) Adults who have been committed to a state forensic  
218 mental health treatment facility after being adjudicated  
219 incompetent to proceed or not guilty by reason of insanity, and  
220 who are released or who are pending release to the community by  
221 the court after completing competency restoration services or  
222 being found to no longer meet the criteria for continued  
223 commitment.

224 (c) Adults who experience serious and persistent mental  
225 illnesses, who have a history of involvement in the justice  
226 system, or who are at risk of entering or who are already  
227 involved with the criminal justice system.

228 (d) Children deemed incompetent to proceed under s. 985.19.

229 (6) DEPARTMENT RESPONSIBILITIES.—The department may develop  
230 a continuum of services to administer this section in accordance  
231 with subsection (4). The department may:

232 (a) Define requirements for all providers in the community



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233 forensic system.

234 (b) Implement demonstration sites for participation, based  
235 on criteria in subsection (7), which demonstrate active and  
236 sustained participation in community collaborations.

237 (c) Enter into memoranda of agreement with county planning  
238 councils or committees that are identified pursuant to s.  
239 394.657 and participated in the criminal justice, mental health,  
240 and substance abuse reinvestment grant program pursuant to s.  
241 394.656, or with a community-based diversion program.

242 (d) Identify providers to implement the continuum of  
243 services. The department shall consult with county planning  
244 councils or committees in the selection process.

245 (e) Establish performance measures and reporting  
246 requirements for providers participating in the community  
247 forensic system. The measures shall include, at a minimum:

248 1. The number of individuals diverted from state forensic  
249 mental health treatment facilities.

250 2. The number of individuals diverted from the criminal  
251 justice system.

252 3. The rates of arrest, incarceration, and reincarceration  
253 for new criminal offenses.

254 4. The rates of employment.

255 5. The annual number of days in a crisis stabilization  
256 unit, detoxification facility, short-term residential treatment  
257 program, state civil mental health treatment facility, or state  
258 forensic mental health treatment facility.

259 (f) Monitor contracts for compliance with terms and assess  
260 performance under contracts and provide an annual report by  
261 October 1 to the Governor, the President of the Senate, the

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262 Speaker of the House of Representatives, the Chief Justice of  
263 the Supreme Court, and the State Courts Administrator on the  
264 implementation status of the Community Mental Health and  
265 Substance Abuse Treatment and Crime Reduction Act.

266 (7) IMPLEMENTATION.—The department may implement this  
267 section within available resources. In expectation of statewide  
268 implementation of this section, the department, in consultation  
269 with the agency, may identify geographic areas of the state for  
270 initial implementation of the pilot program sites. Future  
271 expansion shall be based on findings of community readiness and  
272 the potential for affecting the greatest number of individuals  
273 entering the forensic mental health and criminal justice  
274 systems. Criteria for selection may include:

275 (a) Community readiness to deliver the services outlined in  
276 subsection (4), demonstrated by well-established community  
277 collaboration plans and local partnerships as evidenced by  
278 memoranda of agreement that are submitted to and approved by the  
279 department.

280 (b) A high bed-utilization rate at state forensic mental  
281 health treatment facilities.

282 (c) Successful application for implementation grant funding  
283 under the Criminal Justice, Mental Health, and Substance Abuse  
284 Reinvestment Grant Program.

285 (d) Other elements determined by the department in  
286 consultation with the agency.

287 Section 2. Paragraph (b) of subsection (11) of section  
288 394.655, Florida Statutes, is amended to read:

289 394.655 The Substance Abuse and Mental Health Corporation;  
290 powers and duties; composition; evaluation and reporting

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291 requirements.-

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

293 1. Align policy initiatives in the criminal justice,  
294 juvenile justice, and mental health, and substance abuse systems  
295 to ensure the most effective use of resources and to coordinate  
296 the development of legislative proposals and budget requests  
297 relating to the shared needs of adults and juveniles who have a  
298 mental illness, substance abuse disorder, or co-occurring mental  
299 health and substance abuse disorders who are in, or at risk of  
300 entering, the criminal justice system.

301 2. Provide consultation in the development of comprehensive  
302 and cost-effective community-based mental health and substance  
303 abuse treatment services for individuals who have mental  
304 illnesses and who are receiving services in state forensic  
305 mental health treatment facilities, juvenile secure residential  
306 treatment centers specializing in competency training, prisons,  
307 jails, and juvenile justice centers.

308 Section 3. Subsection (1) of section 394.656, Florida  
309 Statutes, is amended to read:

310 394.656 Criminal Justice, Mental Health, and Substance  
311 Abuse Reinvestment Grant Program.-

312 (1) There is created within the Department of Children and  
313 Family Services the Criminal Justice, Mental Health, and  
314 Substance Abuse Reinvestment Grant Program. The purpose of the  
315 program is to provide funding to counties to ~~with which they can~~  
316 plan, implement, or expand initiatives that increase public  
317 safety, avert increased spending on criminal justice, and  
318 improve the accessibility and effectiveness of treatment  
319 services for adults and juveniles who have a mental illness,

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320 substance abuse disorder, or co-occurring mental health and  
321 substance abuse disorders and who are in, or at risk of  
322 entering, the criminal or juvenile justice systems. In  
323 implementing the Community Mental Health and Substance Abuse  
324 Treatment and Crime Reduction Act, the department and agency  
325 shall work in coordination with counties that received grants  
326 under the program or a community-based diversion program.

327 Section 4. Subsection (1) of section 394.657, Florida  
328 Statutes, is amended to read:

329 394.657 County planning councils or committees.—

330 (1) Each board of county commissioners shall designate the  
331 county public safety coordinating council established under s.  
332 951.26, or designate another criminal or juvenile justice mental  
333 health and substance abuse council or committee, as the planning  
334 council or committee. The public safety coordinating council or  
335 other designated criminal or juvenile justice mental health and  
336 substance abuse council or committee shall:

337 (a) Coordinate ~~in coordination~~ with the county offices of  
338 planning and budget ~~to,~~ shall make a formal recommendation to  
339 the board of county commissioners regarding how the Criminal  
340 Justice, Mental Health, and Substance Abuse Reinvestment Grant  
341 Program may best be implemented within a community. The board of  
342 county commissioners may assign any entity to prepare the  
343 application on behalf of the county administration for  
344 submission to the corporation for review. A county may join with  
345 one or more counties to form a consortium and use a regional  
346 public safety coordinating council or another county-designated  
347 regional criminal or juvenile justice mental health and  
348 substance abuse planning council or committee for the geographic

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349 area represented by the member counties.

350 (b) Consult with local governing bodies when planning or  
351 implementing the Community Mental Health and Substance Abuse  
352 Treatment and Crime Reduction Act.

353 Section 5. Subsection (28) is added to section 409.906,  
354 Florida Statutes, to read:

355 409.906 Optional Medicaid services.—Subject to specific  
356 appropriations, the agency may make payments for services which  
357 are optional to the state under Title XIX of the Social Security  
358 Act and are furnished by Medicaid providers to recipients who  
359 are determined to be eligible on the dates on which the services  
360 were provided. Any optional service that is provided shall be  
361 provided only when medically necessary and in accordance with  
362 state and federal law. Optional services rendered by providers  
363 in mobile units to Medicaid recipients may be restricted or  
364 prohibited by the agency. Nothing in this section shall be  
365 construed to prevent or limit the agency from adjusting fees,  
366 reimbursement rates, lengths of stay, number of visits, or  
367 number of services, or making any other adjustments necessary to  
368 comply with the availability of moneys and any limitations or  
369 directions provided for in the General Appropriations Act or  
370 chapter 216. If necessary to safeguard the state's systems of  
371 providing services to elderly and disabled persons and subject  
372 to the notice and review provisions of s. 216.177, the Governor  
373 may direct the Agency for Health Care Administration to amend  
374 the Medicaid state plan to delete the optional Medicaid service  
375 known as "Intermediate Care Facilities for the Developmentally  
376 Disabled." Optional services may include:

377 (28) HOME AND COMMUNITY-BASED SERVICES.—The agency,

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378 contingent upon appropriation of funds for this purpose, may  
379 seek federal approval through a state plan amendment to  
380 implement home and community-based services under the authority  
381 of and in compliance with s. 1915i of the Social Security Act  
382 for services provided to individuals who have been determined by  
383 an independent evaluation to have disabilities that cause them  
384 to become, or put them at risk of becoming, involved with the  
385 criminal justice system due to their mental illness. In  
386 accordance with allowances under s. 1915i of the Social Security  
387 Act, these services may be limited to a select number of  
388 eligible individuals in select geographic areas, as identified  
389 by the agency. Eligible individuals may have incomes up to 150  
390 percent of the federal poverty level. The agency shall  
391 coordinate with the department to select and define the services  
392 that will be submitted in the state plan amendment and provided  
393 under this subsection. The agency shall disenroll individuals  
394 receiving services under this subsection from MediPass or any  
395 capitated or other Medicaid-managed care arrangement. Enrollment  
396 in state plan services may not exceed 1,000 individuals unless  
397 additional approval is obtained from the Legislature. The agency  
398 must receive approval from the Legislature or Legislative Budget  
399 Commission for any funding beyond that provided within initial  
400 implementation revenues. After July 1, 2013, the agency may seek  
401 authority to capitate Medicaid behavioral health services under  
402 this subsection.

403 Section 6. Subsection (54) is added to section 409.912,  
404 Florida Statutes, to read:

405 409.912 Cost-effective purchasing of health care.—The  
406 agency shall purchase goods and services for Medicaid recipients

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407 in the most cost-effective manner consistent with the delivery  
408 of quality medical care. To ensure that medical services are  
409 effectively utilized, the agency may, in any case, require a  
410 confirmation or second physician's opinion of the correct  
411 diagnosis for purposes of authorizing future services under the  
412 Medicaid program. This section does not restrict access to  
413 emergency services or poststabilization care services as defined  
414 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
415 shall be rendered in a manner approved by the agency. The agency  
416 shall maximize the use of prepaid per capita and prepaid  
417 aggregate fixed-sum basis services when appropriate and other  
418 alternative service delivery and reimbursement methodologies,  
419 including competitive bidding pursuant to s. 287.057, designed  
420 to facilitate the cost-effective purchase of a case-managed  
421 continuum of care. The agency shall also require providers to  
422 minimize the exposure of recipients to the need for acute  
423 inpatient, custodial, and other institutional care and the  
424 inappropriate or unnecessary use of high-cost services. The  
425 agency shall contract with a vendor to monitor and evaluate the  
426 clinical practice patterns of providers in order to identify  
427 trends that are outside the normal practice patterns of a  
428 provider's professional peers or the national guidelines of a  
429 provider's professional association. The vendor must be able to  
430 provide information and counseling to a provider whose practice  
431 patterns are outside the norms, in consultation with the agency,  
432 to improve patient care and reduce inappropriate utilization.  
433 The agency may mandate prior authorization, drug therapy  
434 management, or disease management participation for certain  
435 populations of Medicaid beneficiaries, certain drug classes, or

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436 particular drugs to prevent fraud, abuse, overuse, and possible  
437 dangerous drug interactions. The Pharmaceutical and Therapeutics  
438 Committee shall make recommendations to the agency on drugs for  
439 which prior authorization is required. The agency shall inform  
440 the Pharmaceutical and Therapeutics Committee of its decisions  
441 regarding drugs subject to prior authorization. The agency is  
442 authorized to limit the entities it contracts with or enrolls as  
443 Medicaid providers by developing a provider network through  
444 provider credentialing. The agency may competitively bid single-  
445 source-provider contracts if procurement of goods or services  
446 results in demonstrated cost savings to the state without  
447 limiting access to care. The agency may limit its network based  
448 on the assessment of beneficiary access to care, provider  
449 availability, provider quality standards, time and distance  
450 standards for access to care, the cultural competence of the  
451 provider network, demographic characteristics of Medicaid  
452 beneficiaries, practice and provider-to-beneficiary standards,  
453 appointment wait times, beneficiary use of services, provider  
454 turnover, provider profiling, provider licensure history,  
455 previous program integrity investigations and findings, peer  
456 review, provider Medicaid policy and billing compliance records,  
457 clinical and medical record audits, and other factors. Providers  
458 shall not be entitled to enrollment in the Medicaid provider  
459 network. The agency shall determine instances in which allowing  
460 Medicaid beneficiaries to purchase durable medical equipment and  
461 other goods is less expensive to the Medicaid program than long-  
462 term rental of the equipment or goods. The agency may establish  
463 rules to facilitate purchases in lieu of long-term rentals in  
464 order to protect against fraud and abuse in the Medicaid program



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465 as defined in s. 409.913. The agency may seek federal waivers  
466 necessary to administer these policies.

467 (54) Persons who have serious and persistent mental  
468 illnesses, who are receiving services under the Community Mental  
469 Health and Substance Abuse Treatment and Crime Reduction Act,  
470 and who are eligible for and receiving services under the state  
471 plan implemented under s. 1915i of the Social Security Act, as  
472 approved by the Centers for Medicare and Medicaid Services, are  
473 exempt from MediPass and managed care plans authorized under  
474 this chapter, including capitated managed care plans authorized  
475 under s. 409.91211.

476 Section 7. Section 916.106, Florida Statutes, is amended to  
477 read:

478 916.106 Definitions.—For the purposes of this chapter, the  
479 term:

480 (1) "Acquittee" means a defendant who has been adjudicated  
481 not guilty by reason of insanity.

482 (2)~~(1)~~ "Agency" means the Agency for Persons with  
483 Disabilities. The agency is responsible for training forensic  
484 clients who are developmentally disabled due to mental  
485 retardation or autism and have been determined incompetent to  
486 proceed.

487 (3)~~(2)~~ "Autism" has the same meaning as in s. 393.063.

488 (4)~~(3)~~ "Chemical weapon" means any shell, cartridge, bomb,  
489 gun, or other device capable of emitting chloroacetophenone  
490 (CN), chlorobenzalmalonitrile (CS) or any derivatives thereof  
491 in any form, or any other agent with lacrimatory properties, and  
492 shall include products such as that commonly known as "mace."

493 (5)~~(4)~~ "Civil facility" means:

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494 (a) A mental health facility established within the  
495 department or by contract with the department to serve  
496 individuals committed pursuant to chapter 394 and those  
497 defendants committed pursuant to this chapter who do not require  
498 the security provided in a forensic facility; or

499 (b) An intermediate care facility for the developmentally  
500 disabled, a foster care facility, a group home facility, or a  
501 supported living setting, as defined in s. 393.063, designated  
502 by the agency to serve those defendants who do not require the  
503 security provided in a forensic facility.

504 (6) "Conditional releasee" means a person placed on  
505 conditional release pursuant to s. 916.17.

506 (7)~~(5)~~ "Court" means the circuit court.

507 (8)~~(6)~~ "Defendant" means an adult, or a juvenile who is  
508 prosecuted as an adult, who has been arraigned and charged with  
509 a felony offense under the laws of this state.

510 (9)~~(7)~~ "Department" means the Department of Children and  
511 Family Services. The department is responsible for the treatment  
512 of forensic clients who have been determined incompetent to  
513 proceed due to mental illness or who have been acquitted of a  
514 felony by reason of insanity.

515 (10)~~(8)~~ "Express and informed consent" or "consent" means  
516 consent given voluntarily in writing after a conscientious and  
517 sufficient explanation and disclosure of the purpose of the  
518 proposed treatment, the common side effects of the treatment, if  
519 any, the expected duration of the treatment, and any alternative  
520 treatment available.

521 (11)~~(9)~~ "Forensic client" or "client" means any defendant  
522 who has been committed to the department or agency pursuant to

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523 s. 916.13, s. 916.15, or s. 916.302.

524 (12)~~(10)~~ "Forensic facility" means a separate and secure  
525 facility established within the department or agency to serve  
526 forensic clients. A separate and secure facility means a  
527 security-grade building for the purpose of separately housing  
528 persons who have mental illness from persons with retardation or  
529 autism and separately housing persons who have been  
530 involuntarily committed pursuant to this chapter from  
531 nonforensic residents.

532 (13)~~(11)~~ "Incompetent to proceed" means unable to proceed  
533 at any material stage of a criminal proceeding, which shall  
534 include trial of the case, pretrial hearings involving questions  
535 of fact on which the defendant might be expected to testify,  
536 entry of a plea, proceedings for violation of probation or  
537 violation of community control, sentencing, and hearings on  
538 issues regarding a defendant's failure to comply with court  
539 orders or conditions or other matters in which the mental  
540 competence of the defendant is necessary for a just resolution  
541 of the issues being considered.

542 (14)~~(12)~~ "Institutional security personnel" means the staff  
543 of forensic facilities who meet or exceed the requirements of s.  
544 943.13 and who are responsible for providing security,  
545 protecting clients and personnel, enforcing rules, preventing  
546 and investigating unauthorized activities, and safeguarding the  
547 interests of citizens in the surrounding communities.

548 (15)~~(13)~~ "Mental illness" means an impairment of the  
549 emotional processes that exercise conscious control of one's  
550 actions, or of the ability to perceive or understand reality,  
551 which impairment substantially interferes with a defendant's

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552 ability to meet the ordinary demands of living. For the purposes  
553 of this chapter, the term does not apply to defendants with only  
554 mental retardation or autism and does not include intoxication  
555 or conditions manifested only by antisocial behavior or  
556 substance abuse impairment.

557 (16)~~(14)~~ "Restraint" means a physical device, method, or  
558 drug used to control dangerous behavior.

559 (a) A physical restraint is any manual method or physical  
560 or mechanical device, material, or equipment attached or  
561 adjacent to a person's body so that he or she cannot easily  
562 remove the restraint and that restricts freedom of movement or  
563 normal access to one's body.

564 (b) A drug used as a restraint is a medication used to  
565 control the person's behavior or to restrict his or her freedom  
566 of movement and not part of the standard treatment regimen of  
567 the person with a diagnosed mental illness who is a client of  
568 the department. Physically holding a person during a procedure  
569 to forcibly administer psychotropic medication is a physical  
570 restraint.

571 (c) Restraint does not include physical devices, such as  
572 orthopedically prescribed appliances, surgical dressings and  
573 bandages, supportive body bands, or other physical holding when  
574 necessary for routine physical examinations and tests; for  
575 purposes of orthopedic, surgical, or other similar medical  
576 treatment; when used to provide support for the achievement of  
577 functional body position or proper balance; or when used to  
578 protect a person from falling out of bed.

579 (17)~~(15)~~ "Retardation" has the same meaning as in s.  
580 393.063.

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581        (18)~~(16)~~ "Seclusion" means the physical segregation of a  
582 person in any fashion or the involuntary isolation of a person  
583 in a room or area from which the person is prevented from  
584 leaving. The prevention may be by physical barrier or by a staff  
585 member who is acting in a manner, or who is physically situated,  
586 so as to prevent the person from leaving the room or area. For  
587 purposes of this chapter, the term does not mean isolation due  
588 to a person's medical condition or symptoms, the confinement in  
589 a forensic facility to a bedroom or area during normal hours of  
590 sleep when there is not an active order for seclusion, or during  
591 an emergency such as a riot or hostage situation when clients  
592 may be temporarily placed in their rooms for their own safety.

593        (19)~~(17)~~ "Social service professional" means a person whose  
594 minimum qualifications include a bachelor's degree and at least  
595 2 years of social work, clinical practice, special education,  
596 habilitation, or equivalent experience working directly with  
597 persons with retardation, autism, or other developmental  
598 disabilities.

599        Section 8. Paragraph (a) of subsection (3) of section  
600 916.107, Florida Statutes, is amended to read:

601        916.107 Rights of forensic clients.—

602        (3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

603        (a) A forensic client or a person placed on conditional  
604 release pursuant to s. 916.17(2) who resides in a crisis  
605 stabilization unit or a short-term residential treatment  
606 facility shall be asked to give express and informed written  
607 consent for treatment. If a client refuses ~~such~~ treatment ~~as is~~  
608 deemed necessary and essential by the client's multidisciplinary  
609 treatment team for the appropriate care of the client, such

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610 treatment may be provided under the following circumstances:

611 1. In an emergency situation in which there is immediate  
612 danger to the safety of the client, conditional releasee, or  
613 others, such treatment may be provided upon the written order of  
614 a physician for a period not to exceed 48 hours, excluding  
615 weekends and legal holidays. If, after the 48-hour period, the  
616 client or conditional releasee has not given express and  
617 informed consent to the treatment initially refused, the  
618 administrator or designee of the civil or forensic facility,  
619 crisis stabilization unit, or short-term residential treatment  
620 facility serving individuals placed on conditional release  
621 pursuant to s. 916.17(2) shall, within 48 hours, excluding  
622 weekends and legal holidays, petition the committing court or  
623 the circuit court serving the county in which the facility is  
624 located, at the option of the facility administrator or  
625 designee, for an order authorizing the continued treatment of  
626 the client or conditional releasee. In the interim, the need for  
627 treatment shall be reviewed every 48 hours and may be continued  
628 without the consent of the client or conditional releasee upon  
629 the continued written order of a physician who has determined  
630 that the emergency situation continues to present a danger to  
631 the safety of the client, conditional releasee, or others.

632 2. In a situation other than an emergency situation, the  
633 administrator or designee of the civil or forensic facility,  
634 crisis stabilization unit, or short-term residential treatment  
635 facility shall petition the court for an order authorizing  
636 necessary and essential treatment for the client or conditional  
637 releasee.

638 a. If the client has been receiving psychotherapeutic

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639 medication at the jail at the time of transfer to the state  
640 forensic mental health treatment facility and lacks the capacity  
641 to make an informed decision regarding mental health treatment  
642 at the time of admission, the admitting physician may order a  
643 continuation of the psychotherapeutic medication if, in the  
644 clinical judgment of the physician, abrupt cessation of the  
645 psychotherapeutic medication could cause a risk to the health  
646 and safety of the client during the time a court order to  
647 medicate is pursued. The jail physician shall provide a current  
648 psychotherapeutic medication order at the time of transfer to  
649 the state mental health treatment facility.

650 b. The court order shall allow such treatment for up to a  
651 period not to exceed 90 days following the date of the entry of  
652 the order. Unless the court is notified in writing that the  
653 client or conditional releasee has provided express and informed  
654 consent in writing or that he or she ~~the client~~ has been  
655 discharged by the committing court, the administrator or  
656 designee shall, before ~~prior to~~ the expiration of the initial  
657 90-day order, petition the court for an order authorizing the  
658 continuation of treatment for another 90 days ~~90-day period~~.  
659 This procedure shall be repeated until the client or conditional  
660 releasee provides consent or is discharged by the committing  
661 court.

662 3. At the hearing on the issue of whether the court should  
663 enter an order authorizing treatment for which a client or  
664 conditional releasee was unable to or refused to give express  
665 and informed consent, the court shall determine by clear and  
666 convincing evidence that the client or conditional releasee has  
667 mental illness, retardation, or autism, that the treatment not

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668 consented to is essential to his or her ~~the care of the client,~~  
669 and that the treatment not consented to is not experimental and  
670 does not present an unreasonable risk of serious, hazardous, or  
671 irreversible side effects. In arriving at the substitute  
672 judgment decision, the court must consider at least the  
673 following factors:

- 674 a. The individual's ~~client's~~ expressed preference regarding  
675 treatment;
- 676 b. The probability of adverse side effects;
- 677 c. The prognosis without treatment; and
- 678 d. The prognosis with treatment.

679

680 The hearing shall be as convenient to the client or conditional  
681 releasee as may be consistent with orderly procedure and shall  
682 be conducted in physical settings not likely to be injurious to  
683 his or her ~~the client's~~ condition. The court may appoint a  
684 general or special magistrate to preside at the hearing. The  
685 client or conditional releasee or his or her ~~the client's~~  
686 guardian, and the representative, shall be provided with a copy  
687 of the petition and the date, time, and location of the hearing.  
688 The client or conditional releasee has the right to have an  
689 attorney represent him or her at the hearing, and, if the client  
690 or conditional releasee is indigent, the court shall appoint the  
691 office of the public defender to represent him or her ~~the client~~  
692 at the hearing. The client or conditional releasee may testify  
693 or not, as he or she chooses, and has the right to cross-examine  
694 witnesses and may present his or her own witnesses.

695 Section 9. Section 916.111, Florida Statutes, is amended to  
696 read:



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697           916.111 Training of mental health experts.—The evaluation  
698 of defendants for competency to proceed or for sanity at the  
699 time of the commission of the offense shall be conducted ~~in such~~  
700 ~~a way as~~ to ensure uniform application of the criteria  
701 enumerated in Rules 3.210 and 3.216, Florida Rules of Criminal  
702 Procedure.

703           (1) Appointed experts shall have completed forensic  
704 evaluator training as specified in this section.

705           (2) A forensic evaluator training course approved by the  
706 department must be provided at least annually to ensure that  
707 mental health professionals have the opportunity to be placed on  
708 the department's forensic evaluator registry.

709           (a) Beginning July 1, 2011, experts shall remain on the  
710 registry if they have completed or retaken the required training  
711 course within the previous 5 years. Those who have not completed  
712 the training course must be removed from the registry and may  
713 not conduct evaluations for the courts.

714           (b) A mental health professional who has completed the  
715 training course within the previous 5 years must maintain  
716 documentation of completion of the required training course and  
717 provide current contact information to the department.

718           (3) The department shall develop, and may contract with  
719 accredited institutions:

720           (a) ~~(1)~~ To provide:

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

724           2. ~~(b)~~ Clinical protocols and procedures based upon the  
725 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal

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726 Procedure; and

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

730 (b)~~(2)~~ To compile and maintain the necessary information  
731 for evaluating the success of this program, including the number  
732 of persons trained, the cost of operating the program, and the  
733 effect on the quality of forensic evaluations as measured by  
734 appropriateness of admissions to state forensic facilities and  
735 to community-based care programs.

736 Section 10. Subsection (1) of section 916.115, Florida  
737 Statutes, is amended to read:

738 916.115 Appointment of experts.—

739 (1) The court shall appoint no more than three experts to  
740 determine the mental condition of a defendant in a criminal  
741 case, including competency to proceed, insanity, involuntary  
742 placement, and treatment. The experts may evaluate the defendant  
743 in jail or in another appropriate local facility or in a  
744 facility of the Department of Corrections.

745 (a) To the extent possible, the appointed experts shall  
746 ~~have completed forensic evaluator training approved by the~~  
747 ~~department, and each shall be a psychiatrist or, licensed~~  
748 ~~psychologist, or physician.~~

749 (b) The department shall maintain and annually provide the  
750 courts with a forensic evaluator registry list ~~list~~ of available  
751 mental health professionals who have completed the approved  
752 training as experts.

753 Section 11. Section 916.13, Florida Statutes, is amended to  
754 read:

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755           916.13 Involuntary commitment of defendant adjudicated  
756 incompetent.-

757           (1) Every defendant who is charged with a felony and who is  
758 adjudicated incompetent to proceed may be involuntarily  
759 committed for treatment upon a finding by the court of clear and  
760 convincing evidence that:

761           (a) The defendant has a mental illness and because of the  
762 mental illness:

763           1. The defendant is manifestly incapable of surviving alone  
764 or with the help of willing and responsible family or friends,  
765 including available alternative services, and, without  
766 treatment, the defendant is likely to suffer from neglect or  
767 refuse to care for herself or himself and such neglect or  
768 refusal poses a real and present threat of substantial harm to  
769 the defendant's well-being; or

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

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

779           (c) There is a substantial probability that the mental  
780 illness causing the defendant's incompetence will respond to  
781 treatment and the defendant will regain competency to proceed in  
782 the reasonably foreseeable future.

783           (2) A defendant who has been charged with a felony and who

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784 has been adjudicated incompetent to proceed due to mental  
785 illness, and who meets the criteria for involuntary commitment  
786 ~~to the department under the provisions of this chapter,~~ may be  
787 committed to the department, and the department shall retain and  
788 treat the defendant.

789 (a) Within ~~No later than~~ 6 months after the date of  
790 admission and at the end of any period of extended commitment,  
791 or at any time the administrator or designee has ~~shall have~~  
792 determined that the defendant has regained competency to proceed  
793 or no longer meets the criteria for continued commitment, the  
794 administrator or designee shall file a report with the court  
795 pursuant to the applicable Florida Rules of Criminal Procedure.

796 (b) A competency hearing must be held within 30 days after  
797 a court receives notification that the defendant is competent to  
798 proceed or no longer meets criteria for continued commitment.

799 Section 12. Section 916.15, Florida Statutes, is amended to  
800 read:

801 916.15 Involuntary commitment of an acquittee ~~defendant~~  
802 ~~adjudicated not guilty by reason of insanity.~~

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

806 (2) An acquittee ~~A defendant who is acquitted of criminal~~  
807 ~~charges because of a finding of not guilty by reason of insanity~~  
808 may be involuntarily committed pursuant to such finding if the  
809 defendant has a mental illness and, because of the illness, is  
810 manifestly dangerous to himself or herself or others.

811 (3) Every acquittee ~~defendant acquitted of criminal charges~~  
812 ~~by reason of insanity and~~ found to meet the criteria for

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813 involuntary commitment may be committed and treated in  
814 accordance with the provisions of this section and the  
815 applicable Florida Rules of Criminal Procedure. The department  
816 shall admit an acquittee ~~a defendant so adjudicated~~ to an  
817 appropriate facility or program for treatment and shall retain  
818 and treat such acquittee ~~defendant~~. No later than 6 months after  
819 the date of admission, prior to the end of any period of  
820 extended commitment, or at any time the administrator or  
821 designee shall have determined that the acquittee ~~defendant~~ no  
822 longer meets the criteria for continued commitment placement,  
823 the administrator or designee shall file a report with the court  
824 pursuant to the applicable Florida Rules of Criminal Procedure.

825 (4) The commitment hearing must be held within 30 days  
826 after the court receives notification that the acquittee no  
827 longer meets the criteria for continued commitment placement.

828 (5) ~~(4)~~ In all proceedings under this section, both the  
829 acquittee ~~defendant~~ and the state shall have the right to a  
830 hearing before the committing court. Evidence at such hearing  
831 may be presented by the hospital administrator or the  
832 administrator's designee as well as by the state and the  
833 acquittee ~~defendant~~. The acquittee ~~has defendant~~ shall have the  
834 right to counsel at any such hearing. In the event that an  
835 acquittee ~~a defendant~~ is determined to be indigent pursuant to  
836 s. 27.52, the public defender shall represent the acquittee  
837 ~~defendant~~. The parties shall have access to the acquittee's  
838 ~~defendant's~~ records at the treating facilities and may interview  
839 or depose personnel who have had contact with the acquittee  
840 ~~defendant~~ at the treating facilities.

841 Section 13. Section 916.17, Florida Statutes, is amended to

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842 read:

843 916.17 Conditional release.—

844 (1) Except for an inmate currently serving a prison  
845 sentence, the committing court may order a conditional release  
846 of any defendant or acquittee in lieu of an involuntary  
847 commitment to a facility pursuant to s. 916.13 or s. 916.15  
848 based upon an approved plan for providing appropriate outpatient  
849 care and treatment. Upon a recommendation that outpatient  
850 treatment of the defendant or acquittee is appropriate, a  
851 written plan for outpatient treatment, including recommendations  
852 from qualified professionals, must be filed with the court, with  
853 copies to all parties. Such a plan may also be submitted by the  
854 defendant or acquittee and filed with the court with copies to  
855 all parties. The plan shall include:

856 (a) Special provisions for residential care or adequate  
857 supervision of the defendant or acquittee.

858 (b) Provisions for outpatient mental health services.

859 (c) If appropriate, recommendations for auxiliary services  
860 such as vocational training, educational services, or special  
861 medical care.

862

863 In its order of conditional release, the court shall specify the  
864 conditions of release based upon the release plan and shall  
865 direct the appropriate agencies or persons to submit periodic  
866 reports to the court regarding the defendant's or acquittee's  
867 compliance with the conditions of the release and progress in  
868 treatment, with copies to all parties.

869 (2) A defendant who otherwise meets the criteria for  
870 involuntary commitment under s. 916.13, but whose current most

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871 serious charge is a felony of the third degree or a felony of  
872 the second degree when the felony did not involve violence, must  
873 be placed in a community residential facility for competency  
874 restoration unless bed space or funding is unavailable for the  
875 community placement or the trial court makes an explicit finding  
876 that the defendant cannot be safely managed in such a placement.  
877 In making such finding, the court shall consider all of the  
878 following:

879 (a) The nature and seriousness of the crime allegedly  
880 committed.

881 (b) The individual's criminal history.

882 (c) The individual's psychiatric history.

883 (d) The individual's history of violent behavior or threats  
884 of violent behavior and risk of harm to self or others.

885 (e) The likelihood that the individual will comply with and  
886 benefit from the mental health treatment and services being  
887 recommended.

888 (f) The availability of appropriate community-based  
889 services and treatment settings.

890 (g) Other information considered relevant by the court.

891 (3)~~(2)~~ Upon the filing of an affidavit or statement under  
892 oath by any person that the defendant or acquittee has failed to  
893 comply with the conditions of release, that the defendant's or  
894 acquittee's condition has deteriorated to the point that  
895 inpatient care is required, or that the release conditions  
896 should be modified, the court shall hold a hearing within 7 days  
897 after receipt of the affidavit or statement under oath. After  
898 the hearing, the court may modify the release conditions. The  
899 court may also order that the defendant or acquittee be returned

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900 to the department if it is found, after the appointment and  
901 report of experts, that the person meets the criteria for  
902 involuntary commitment under s. 916.13 or s. 916.15.

903 (4)~~(3)~~ If at any time it is determined after a hearing that  
904 the defendant or acquittee who has been conditionally released  
905 under subsection (1) no longer requires court-supervised  
906 followup care, the court shall terminate its jurisdiction in the  
907 cause and discharge the defendant or acquittee.

908 Section 14. Subsection (1) of section 985.19, Florida  
909 Statutes, is amended to read:

910 985.19 Incompetency in juvenile delinquency cases.—

911 (1) If, at any time prior to or during a delinquency case,  
912 the court has reason to believe that the child named in the  
913 petition may be incompetent to proceed with the hearing, the  
914 court on its own motion may, or on the motion of the child's  
915 attorney or state attorney must, stay all proceedings and order  
916 an evaluation of the child's mental condition.

917 (a) Any motion questioning the child's competency to  
918 proceed must be served upon the child's attorney, the state  
919 attorney, the attorneys representing the Department of Juvenile  
920 Justice, and the attorneys representing the Department of  
921 Children and Family Services. Thereafter, any motion, notice of  
922 hearing, order, or other legal pleading relating to the child's  
923 competency to proceed with the hearing must be served upon the  
924 child's attorney, the state attorney, the attorneys representing  
925 the Department of Juvenile Justice, and the attorneys  
926 representing the Department of Children and Family Services.

927 (b) All determinations of competency must ~~shall~~ be made at  
928 a hearing, with findings of fact based on an evaluation of the



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929 child's mental condition made by at least ~~not less than~~ two but  
930 not ~~nor~~ more than three experts appointed by the court. The  
931 basis for the determination of incompetency must be specifically  
932 stated in the evaluation and must be conducted so as to ensure  
933 uniform application of the criteria enumerated in Rule 8.095,  
934 Florida Rules of Juvenile Procedure. ~~In addition,~~ A  
935 recommendation as to whether residential or nonresidential  
936 treatment or training is required must be included in the  
937 evaluation. Experts appointed by the court to determine the  
938 mental condition of a child shall be allowed reasonable fees for  
939 services rendered. State employees may be paid expenses pursuant  
940 to s. 112.061. The fees shall be taxed as costs in the case.

941 (c) All court orders determining incompetency must include  
942 specific written findings by the court as to the nature of the  
943 incompetency and whether the child requires a secure or  
944 nonsecure treatment or training environment environments.

945 (d) The evaluation of juveniles for competency to proceed  
946 shall be conducted in a manner that ensures the uniform  
947 application of the criteria in Rule 8.095, Florida Rules of  
948 Juvenile Procedure. The Department of Children and Family  
949 Services shall develop, or may contract with accredited  
950 institutions to provide for:

951 1. A plan for training mental health professionals to  
952 perform forensic evaluations and for standardizing the criteria  
953 and procedures to be used in such evaluations;

954 2. Clinical protocols and procedures based on the criteria  
955 in the Florida Rules of Juvenile Procedure;

956 3. Training programs for mental health professionals in the  
957 application of these protocols and procedures for performing

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958 forensic evaluations and providing reports to the courts; and

959 4. Procedures for evaluating the success of the program,  
960 including the number of persons trained, the cost of operating  
961 the program, and the effect on the quality of forensic  
962 evaluations as measured by the appropriateness of admissions to  
963 the Department of Children and Family Services' juvenile  
964 competence-to-proceed programs.

965 (e)-(d) For ~~competency~~ incompetency evaluations related to  
966 mental illness, the Department of Children and Family Services  
967 shall maintain and annually provide the courts with a forensic  
968 evaluator registry ~~list~~ of available mental health professionals  
969 who have completed a training program, approved by the  
970 Department of Children and Family Services to perform ~~the~~  
971 evaluations under this section. To the extent possible, the  
972 appointed expert shall be a psychiatrist or licensed  
973 psychologist.

974 (f) An expert appointed by the court must have completed  
975 forensic evaluator training as specified below.

976 1. A forensic evaluator training course approved by the  
977 Department of Children and Family Services must be provided at  
978 least annually to ensure that mental health professionals have  
979 an opportunity to be placed on the registry.

980 2. Beginning July 1, 2011, an expert shall remain on the  
981 registry if he or she has completed or retaken the required  
982 training within the previous 5 years. An expert who has not  
983 completed the required training within the previous 5 years must  
984 be removed from the registry and may not conduct evaluations for  
985 the courts.

986 3. A mental health professional who has completed the

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987 training course within the previous 5 years must maintain  
988 documentation of having completing the required training and  
989 provide current contact information to the Department of  
990 Children and Family Services.

991 (g)~~(e)~~ For competency ~~incompetency~~ evaluations related to  
992 mental retardation or autism, the court shall order the Agency  
993 for Persons with Disabilities to examine the child to determine  
994 if the child meets the definition of "retardation" or "autism"  
995 in s. 393.063 and, if so, whether the child is competent to  
996 proceed with delinquency proceedings.

997 (h)~~(f)~~ A child is competent to proceed if the child has  
998 sufficient present ability to consult with counsel with a  
999 reasonable degree of rational understanding and the child has a  
1000 rational and factual understanding of the present proceedings.  
1001 The report must address the child's capacity to:

- 1002 1. Appreciate the charges or allegations against the child.
- 1003 2. Appreciate the range and nature of possible penalties  
1004 that may be imposed in the proceedings against the child, if  
1005 applicable.
- 1006 3. Understand the adversarial nature of the legal process.
- 1007 4. Disclose to counsel facts pertinent to the proceedings  
1008 at issue.
- 1009 5. Display appropriate courtroom behavior.
- 1010 6. Testify relevantly.

1011 (i)~~(g)~~ Immediately upon the filing of the court order  
1012 finding a child to be incompetent to proceed, the clerk of the  
1013 court shall notify the Department of Children and Family  
1014 Services and the Agency for Persons with Disabilities and fax or  
1015 hand deliver to the department and to the agency a referral

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1016 packet that includes, at a minimum, the court order, the  
1017 charging documents, the petition, and the court-appointed  
1018 evaluator's reports.

1019 (j)~~(h)~~ After placement of the child in the appropriate  
1020 setting, the Department of Children and Family Services in  
1021 consultation with the Agency for Persons with Disabilities, as  
1022 appropriate, must, within 30 days after placement of the child,  
1023 prepare and submit to the court a treatment or training plan for  
1024 the child's restoration of competency. A copy of the plan must  
1025 be served upon the child's attorney, the state attorney, and the  
1026 attorneys representing the Department of Juvenile Justice.

1027 Section 15. This act shall take effect July 1, 2010.