

By the Committee on Criminal Justice; and Senator Storms

591-04782-10

20102612c1

1 A bill to be entitled
2 An act relating to forensic mental health; amending s.
3 394.457, F.S.; providing additional responsibilities
4 for certain contractors of the Department of Children
5 and Family Services; providing for set-asides for
6 service providers that have supportive employment
7 programs; requiring that the department make certain
8 training available to correctional personnel; amending
9 s. 394.4655, F.S.; providing for involuntary
10 outpatient treatment plans that require patients to
11 take all prescribed medications in certain
12 circumstances; amending s. 948.001, F.S.; defining the
13 term "department" for purposes of ch. 948, F.S.;
14 creating s. 948.0395, F.S.; providing for the creation
15 of a forensic mental health probation and parole
16 program; providing program requirements; providing for
17 designation of certain correctional probation officers
18 as forensic probation officers; providing for
19 establishing requirements for such officers; providing
20 duties for such officers; authorizing the Department
21 of Corrections to establish an advisory workgroup to
22 assist with the program; requiring that the department
23 adopt rules; authorizing the chief judge of each
24 circuit to establish a mental health court; providing
25 requirements for such courts; authorizing specified
26 activities by such courts; requiring each court to
27 have a coordinator for certain aspects of the court's
28 operations; requiring that such courts be funded from
29 existing revenues or from a specified grant program;

591-04782-10

20102612c1

30 requiring that the Department of Children and Family
31 Services adopt rules relating to supportive housing;
32 requiring that the Office of Program Policy Analysis
33 and Government Accountability perform a study of the
34 forensic mental health system; requiring that the
35 study examine the causes impacting the incarceration
36 of the mentally ill in state and local correctional
37 facilities; requiring that a report of such study be
38 submitted to the Legislature by a specified date;
39 providing an effective date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Paragraphs (c) and (d) are added to subsection
44 (2) of section 394.457, Florida Statutes, and subsections (8)
45 and (9) are added to that section, to read:

46 394.457 Operation and administration.—

47 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is
48 responsible for:

49 (c) Ensuring that each state contract mental health agency
50 that works with individuals who are under forensic mental health
51 probation and parole:

52 1. Ensures that each person enrolled in the probation and
53 parole program has a forensic case manager who is working
54 towards reducing the need for institutional placement.

55 2. Coordinates between the forensic probation and parole
56 program, mental health court, and other agencies needed to help
57 improve access to care.

58 (d) In cooperation with each circuit administrator,

591-04782-10

20102612c1

59 supervising all forensic mental health programs and contracts,
60 which shall be carried out by the department's central office
61 staff.

62 (8) SUPPORTIVE EMPLOYMENT PROGRAMS.—The department, subject
63 to current resources, shall examine opportunities to generate
64 cost savings through the use of set-aside agreements with
65 supportive employment programs that serve forensic mental health
66 consumers living in the community under plans of conditional
67 release.

68 (9) TRAINING FOR CORRECTIONAL PERSONNEL.—The department may
69 make available training on the special needs of adult forensic
70 mental health inmates incarcerated in state correctional
71 facilities operated by the Department of Corrections or a
72 private vendor to the staffs of these institutions.

73 Section 2. Paragraph (a) of subsection (2) of section
74 394.4655, Florida Statutes, is amended to read:

75 394.4655 Involuntary outpatient placement.—

76 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

77 (a)1. A patient who is being recommended for involuntary
78 outpatient placement by the administrator of the receiving
79 facility where the patient has been examined may be retained by
80 the facility after adherence to the notice procedures provided
81 in s. 394.4599. The recommendation must be supported by the
82 opinion of a psychiatrist and the second opinion of a clinical
83 psychologist or another psychiatrist, both of whom have
84 personally examined the patient within the preceding 72 hours,
85 that the criteria for involuntary outpatient placement are met.
86 However, in a county having a population of fewer than 50,000,
87 if the administrator certifies that a psychiatrist or clinical

591-04782-10

20102612c1

88 psychologist is not available to provide the second opinion, the
89 second opinion may be provided by a licensed physician who has
90 postgraduate training and experience in diagnosis and treatment
91 of mental and nervous disorders or by a psychiatric nurse. Any
92 second opinion authorized in this subparagraph may be conducted
93 through a face-to-face examination, in person or by electronic
94 means. Such recommendation must be entered on an involuntary
95 outpatient placement certificate that authorizes the receiving
96 facility to retain the patient pending completion of a hearing.
97 The certificate shall be made a part of the patient's clinical
98 record.

99 2. If the patient has been stabilized and no longer meets
100 the criteria for involuntary examination pursuant to s.
101 394.463(1), the patient must be released from the receiving
102 facility while awaiting the hearing for involuntary outpatient
103 placement. Before filing a petition for involuntary outpatient
104 treatment, the administrator of a receiving facility or a
105 designated department representative must identify the service
106 provider that will have primary responsibility for service
107 provision under an order for involuntary outpatient placement,
108 unless the person is otherwise participating in outpatient
109 psychiatric treatment and is not in need of public financing for
110 that treatment, in which case the individual, if eligible, may
111 be ordered to involuntary treatment pursuant to the existing
112 psychiatric treatment relationship.

113 3. The service provider shall prepare a written proposed
114 treatment plan in consultation with the patient or the patient's
115 guardian advocate, if appointed, for the court's consideration
116 for inclusion in the involuntary outpatient placement order. The

591-04782-10

20102612c1

117 service provider shall also provide a copy of the proposed
118 treatment plan to the patient and the administrator of the
119 receiving facility. The treatment plan must specify the nature
120 and extent of the patient's mental illness, address the
121 reduction of symptoms that necessitate involuntary outpatient
122 placement, and include measurable goals and objectives for the
123 services and treatment that are provided to treat the person's
124 mental illness and assist the person in living and functioning
125 in the community or to prevent a relapse or deterioration.
126 Service providers may select and supervise other individuals to
127 implement specific aspects of the treatment plan. The services
128 in the treatment plan must be deemed clinically appropriate by a
129 physician, clinical psychologist, psychiatric nurse, mental
130 health counselor, marriage and family therapist, or clinical
131 social worker who consults with, or is employed or contracted
132 by, the service provider. The service provider must certify to
133 the court in the proposed treatment plan whether sufficient
134 services for improvement and stabilization are currently
135 available and whether the service provider agrees to provide
136 those services. If the service provider certifies that the
137 services in the proposed treatment plan are not available, the
138 petitioner may not file the petition.

139 4. If the patient is to be supervised by a forensic mental
140 health case manager, the plan may require the patient to take
141 all prescribed medications.

142 Section 3. Subsections (4) through (10) of section 948.001,
143 Florida Statutes, are renumbered as subsections (5) through
144 (11), respectively, and a new subsection (4) is added to that
145 section to read:

591-04782-10

20102612c1

146 948.001 Definitions.—As used in this chapter, the term:

147 (4) "Department" means the Department of Corrections.

148 Section 4. Section 948.0395, Florida Statutes, is created
149 to read:

150 948.0395 Forensic probation and parole program.—

151 (1) The department shall create a forensic mental health
152 probation and parole program that shall be responsible for
153 reentry of mentally ill inmates back into the community.

154 (2) The forensic probation and parole program shall be
155 focused on compliance with care, supervision of conditional
156 plans of release, tracking information, and reducing
157 inappropriate placements and jail utilization. The department
158 shall make sex offenders a high priority for supervision and for
159 placement in safe housing that is not located near children.

160 (3) This program shall be established within the current
161 department funding and the secretary may reorganize the
162 probation and parole staff and programs to assist with the
163 development of the forensic mental health program. The
164 department may have a probation officer serve in a dual role as
165 a trained forensic mental health probation officer as well as an
166 officer for persons subject to general probation and parole.

167 (4) (a) The department may designate correctional probation
168 officers as forensic probation officers.

169 (b) The department shall establish requirements for such
170 forensic mental health probation officers.

171 (c) Forensic mental health probation officers shall
172 coordinate issues and compliance with the Department of Children
173 and Family Services' forensic case manager and establish plans
174 having the goal of improving plan compliance and reducing the

591-04782-10

20102612c1

175 need for incarcerations due to violations.

176 (d) Forensic mental health probation officers shall work
177 with all relevant agencies to further the goals of the forensic
178 mental health program.

179 (5) The department may establish an advisory workgroup to
180 assist the department in gathering input, providing professional
181 expertise, and developing appropriate policies and procedures to
182 ensure implementation of this section.

183 (6) The department shall adopt rules pursuant to ss.
184 120.536(1) and 120.54 to implement the provisions of this
185 section conferring duties upon it.

186 Section 5. (1) The chief judge of each circuit may
187 establish a mental health court to help reduce the cost of
188 managing cases that pertain to persons with mental illnesses who
189 have court involvement. The chief judge shall supervise the
190 mental health court.

191 (2) Each mental health court shall:

192 (a) Have an advisory workgroup for the purpose of providing
193 input, which shall serve as a coordinating workgroup to help
194 improve access to community-based services and improve access to
195 care for individuals involved with the criminal justice system.

196 (b) Establish eligibility criteria. Individuals charged
197 with felonies who upon evaluation are considered to be a minimal
198 threat to public safety may be considered for mental health
199 court involvement.

200 (c) Be focused on improving compliance with mental health
201 care and treatment and may require state agencies to comply with
202 its orders and directives.

203 (d) Supervise the processing of felonies and misdemeanors

591-04782-10

20102612c1

204 and determine which cases shall be referred for criminal
205 prosecution and incarceration and those who are eligible for
206 diversion programs and alternatives.

207 (e) Be the ongoing contact with the criminal justice system
208 for persons found incompetent to proceed and supervise the
209 community control for such persons under s. 916.145(2), Florida
210 Statutes.

211 (f) Process all evaluations for persons charged with a
212 felony and require evaluations for competency to proceed or a
213 determination of not guilty by reason of insanity.

214 (3) A mental health court may:

215 (a) Establish drug repository programs and accept unused
216 medications from nursing homes and licensed assisted living
217 facilities to be repackaged and used for mental health court
218 participants who need medications.

219 (b) Provide a waiver of charges and allow the court
220 flexibility in dispositions.

221 (c) Authorize the use of medication algorithms for mental
222 health court participants.

223 (d) Require individuals who are enrolled in Medicaid,
224 prepaid mental health plans, or Medicaid health maintenance
225 organizations to obtain maximum available reimbursement for all
226 medically necessary services.

227 (4) (a) Each mental health court shall have a coordinator to
228 run the day-to-day elements of the program.

229 (b) The coordinator shall supervise the forensic mental
230 health case managers and receive reports from the case managers.

231 (c) The coordinator shall evaluate the threat to public
232 safety and make recommendations to the court regarding

591-04782-10

20102612c1

233 compliance or appropriateness for court involvement.

234 (5) A mental health court may supervise compliance with the
235 assisted outpatient treatment laws as such laws relate to court
236 requirements that outpatients take their medications.

237 (6) Mental health courts shall be funded from within
238 existing resources or from grants under s. 394.658, Florida
239 Statutes.

240 Section 6. The Department of Children and Family Services
241 shall adopt rules relating to supportive housing. In
242 establishing these rules, the department shall define the term
243 "supportive housing" and shall address consumer health and
244 safety and the use of state subsidies.

245 Section 7. The Office of Program Policy Analysis and
246 Government Accountability shall perform a study of the forensic
247 mental health system. The study shall examine the causes that
248 impact the incarceration of the mentally ill in state and local
249 correctional facilities. The report shall be submitted to the
250 President of the Senate and the Speaker of the House of
251 Representatives by December 31, 2010.

252 Section 8. This act shall take effect July 1, 2010.