

By Senator Storms

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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; requiring that the department
6 make certain training available to correctional
7 personnel; amending s. 394.4655, F.S.; providing for
8 involuntary outpatient treatment plans that require
9 patients to take all prescribed medications in certain
10 circumstances; amending s. 394.78, F.S.; providing for
11 set-asides for service providers that have supportive
12 employment programs; amending s. 948.001, F.S.;
13 defining the term "department" for purposes of ch.
14 948, F.S.; creating s. 948.0395, F.S.; providing for
15 the creation of a forensic mental health probation and
16 parole program; providing program requirements;
17 providing for designation of certain correctional
18 probation officers as forensic probation officers;
19 requiring establishment of requirements for such
20 officers; providing duties for such officers;
21 authorizing the Department of Corrections to establish
22 an advisory workgroup to assist with the program;
23 requiring that the department adopt rules; authorizing
24 the chief judge of each circuit to establish a mental
25 health court; providing requirements for such courts;
26 authorizing specified activities by such courts;
27 requiring each court to have a coordinator for certain
28 aspects of the court's operations; requiring that such
29 courts be funded from existing revenues or from a

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

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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 subsection (8) is
45 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,

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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) TRAINING FOR CORRECTIONAL PERSONNEL.—The department may
63 make available training on the special needs of adult forensic
64 mental health inmates incarcerated in state correctional
65 facilities operated by the Department of Corrections or a
66 private vendor to the staffs of these institutions.

67 Section 2. Paragraph (a) of subsection (2) of section
68 394.4655, Florida Statutes, is amended to read:

69 394.4655 Involuntary outpatient placement.—

70 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

71 (a)1. A patient who is being recommended for involuntary
72 outpatient placement by the administrator of the receiving
73 facility where the patient has been examined may be retained by
74 the facility after adherence to the notice procedures provided
75 in s. 394.4599. The recommendation must be supported by the
76 opinion of a psychiatrist and the second opinion of a clinical
77 psychologist or another psychiatrist, both of whom have
78 personally examined the patient within the preceding 72 hours,
79 that the criteria for involuntary outpatient placement are met.
80 However, in a county having a population of fewer than 50,000,
81 if the administrator certifies that a psychiatrist or clinical
82 psychologist is not available to provide the second opinion, the
83 second opinion may be provided by a licensed physician who has
84 postgraduate training and experience in diagnosis and treatment
85 of mental and nervous disorders or by a psychiatric nurse. Any
86 second opinion authorized in this subparagraph may be conducted
87 through a face-to-face examination, in person or by electronic

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88 means. Such recommendation must be entered on an involuntary
89 outpatient placement certificate that authorizes the receiving
90 facility to retain the patient pending completion of a hearing.
91 The certificate shall be made a part of the patient's clinical
92 record.

93 2. If the patient has been stabilized and no longer meets
94 the criteria for involuntary examination pursuant to s.
95 394.463(1), the patient must be released from the receiving
96 facility while awaiting the hearing for involuntary outpatient
97 placement. Before filing a petition for involuntary outpatient
98 treatment, the administrator of a receiving facility or a
99 designated department representative must identify the service
100 provider that will have primary responsibility for service
101 provision under an order for involuntary outpatient placement,
102 unless the person is otherwise participating in outpatient
103 psychiatric treatment and is not in need of public financing for
104 that treatment, in which case the individual, if eligible, may
105 be ordered to involuntary treatment pursuant to the existing
106 psychiatric treatment relationship.

107 3. The service provider shall prepare a written proposed
108 treatment plan in consultation with the patient or the patient's
109 guardian advocate, if appointed, for the court's consideration
110 for inclusion in the involuntary outpatient placement order. The
111 service provider shall also provide a copy of the proposed
112 treatment plan to the patient and the administrator of the
113 receiving facility. The treatment plan must specify the nature
114 and extent of the patient's mental illness, address the
115 reduction of symptoms that necessitate involuntary outpatient
116 placement, and include measurable goals and objectives for the

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117 services and treatment that are provided to treat the person's
118 mental illness and assist the person in living and functioning
119 in the community or to prevent a relapse or deterioration.
120 Service providers may select and supervise other individuals to
121 implement specific aspects of the treatment plan. The services
122 in the treatment plan must be deemed clinically appropriate by a
123 physician, clinical psychologist, psychiatric nurse, mental
124 health counselor, marriage and family therapist, or clinical
125 social worker who consults with, or is employed or contracted
126 by, the service provider. The service provider must certify to
127 the court in the proposed treatment plan whether sufficient
128 services for improvement and stabilization are currently
129 available and whether the service provider agrees to provide
130 those services. If the service provider certifies that the
131 services in the proposed treatment plan are not available, the
132 petitioner may not file the petition.

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

136 Section 3. Subsection (7) is added to section 394.78,
137 Florida Statutes, to read:

138 394.78 Operation and administration; personnel standards;
139 procedures for audit and monitoring of service providers;
140 resolution of disputes.-

141 (7) The department, subject to current resources, shall
142 examine opportunities to generate cost savings through the use
143 of set-aside agreements with supportive employment programs that
144 serve forensic mental health clients living in the community
145 under plans of conditional release.

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146 Section 4. Subsections (6) through (13) of section 948.001,
147 Florida Statutes, are renumbered as subsections (7) through
148 (14), respectively, and a new subsection (5) is added to that
149 section to read:

150 948.001 Definitions.—As used in this chapter, the term:

151 (5) "Department" means the Department of Corrections.

152 Section 5. Section 948.0395, Florida Statutes, is created
153 to read:

154 948.0395 Forensic probation and parole program.—

155 (1) The department shall create a forensic mental health
156 probation and parole program that is responsible for the reentry
157 of mentally ill inmates back into the community.

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

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

171 (4) (a) The department may designate correctional probation
172 officers as forensic probation officers.

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

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175 (c) Forensic mental health probation officers shall
176 coordinate issues and compliance with the Department of Children
177 and Family Services' forensic case manager and establish plans
178 having the goal of improving plan compliance and reducing the
179 need for incarcerations due to violations.

180 (d) Forensic mental health probation officers shall work
181 with all relevant agencies to further the goals of the forensic
182 mental health program.

183 (5) The department may establish an advisory workgroup to
184 assist the department in gathering input, providing professional
185 expertise, and developing appropriate policies and procedures to
186 ensure implementation of this section.

187 (6) The department shall adopt rules pursuant to ss.
188 120.536(1) and 120.54 to implement the provisions of this
189 section conferring duties upon it.

190 Section 6. (1) The chief judge of each circuit may
191 establish a mental health court to help reduce the cost of
192 managing cases that pertain to persons with mental illnesses who
193 have court involvement. The chief judge shall supervise the
194 mental health court.

195 (2) Each mental health court shall:

196 (a) Have an advisory workgroup for the purpose of providing
197 input, which shall serve as a coordinating workgroup to help
198 improve access to community-based services and improve access to
199 care for persons involved with the criminal justice system.

200 (b) Establish eligibility criteria. A person charged with a
201 felony who, upon evaluation, is considered to be a minimal
202 threat to public safety may be considered for mental health
203 court involvement.

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204 (c) Focus on improving compliance with mental health care
205 and treatment and may require state agencies to comply with its
206 orders and directives.

207 (d) Supervise the processing of felonies and misdemeanors
208 and determine which cases shall be referred for criminal
209 prosecution and incarceration and which are eligible for
210 diversion programs and alternatives.

211 (e) Be the ongoing contact with the criminal justice system
212 for persons found incompetent to proceed under s. 916.145,
213 Florida Statutes.

214 (f) Process all evaluations for each person charged with a
215 felony and require evaluations for competency to proceed or a
216 determination of not guilty by reason of insanity.

217 (3) A mental health court may:

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

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

224 (c) Authorize the use of medication algorithms for mental
225 health court participants.

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

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

232 (b) The coordinator shall supervise the forensic mental

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233 health case managers and receive reports from the case managers.

234 (c) The coordinator shall evaluate a participant's threat
235 to public safety and make recommendations to the court regarding
236 compliance or appropriateness for court involvement.

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

240 (6) Mental health courts shall be funded from within
241 existing resources or from grants under s. 394.658, Florida
242 Statutes.

243 Section 7. The Department of Children and Family Services
244 shall adopt rules relating to supportive housing. In
245 establishing these rules, the department shall define the term
246 "supportive housing" and shall address consumer health and
247 safety and the use of state subsidies.

248 Section 8. The Office of Program Policy Analysis and
249 Government Accountability shall perform a study of the forensic
250 mental health system. The study shall examine the causes that
251 impact the incarceration of the mentally ill in state and local
252 correctional facilities. The report shall be submitted to the
253 President of the Senate and the Speaker of the House of
254 Representatives by December 31, 2011.

255 Section 9. This act shall take effect July 1, 2011.