

By the Committee on Children, Families, and Elder Affairs

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1 A bill to be entitled
2 An act relating to mental health and substance abuse
3 treatment; amending s. 916.106, F.S.; redefining the
4 term "court" to include county courts in certain
5 circumstances; amending s. 916.13, F.S.; requiring the
6 Department of Children and Family Services to provide
7 a discharged defendant with up to a 7-day supply of
8 psychotropic medication when he or she is returning to
9 jail from a state treatment facility; requiring the
10 department to prescribe a specified formulary when
11 filling prescriptions for psychotropic medications;
12 amending s. 916.17, F.S.; authorizing a county court
13 to order the conditional release of a defendant for
14 the provision of outpatient care and treatment;
15 creating s. 916.185, F.S.; creating the Forensic
16 Hospital Diversion Pilot Program; providing
17 legislative intent; providing definitions; requiring
18 the Department of Children and Family Services to
19 implement a Forensic Hospital Diversion Pilot Program
20 in three specified judicial circuits; providing the
21 scope of eligibility for the pilot program; providing
22 legislative intent concerning training; authorizing
23 the department to adopt rules; directing the Office of
24 Program Policy Analysis and Government Accountability
25 to submit a report to the Governor and Legislature;
26 amending s. 951.23, F.S.; defining the term "facility"
27 for purposes of the administration of county and
28 municipal detention facilities to include detention
29 facilities and residential probation centers;

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30 requiring county and municipal detention facilities to
31 use a formulary approved by the Department of Children
32 and Family Services when prescribing psychotropic
33 medications for defendants discharged from state
34 treatment facilities; providing an effective date.
35

36 Be It Enacted by the Legislature of the State of Florida:
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38 Section 1. Subsection (5) of section 916.106, Florida
39 Statutes, is amended to read:

40 916.106 Definitions.—For the purposes of this chapter, the
41 term:

42 (5) "Court" means the circuit court and the county court as
43 provided in s. 916.17.

44 Section 2. Subsection (2) of section 916.13, Florida
45 Statutes, is amended to read:

46 916.13 Involuntary commitment of defendant adjudicated
47 incompetent.—

48 (2) A defendant who has been charged with a felony and who
49 has been adjudicated incompetent to proceed due to mental
50 illness, and who meets the criteria for involuntary commitment
51 to the department under the provisions of this chapter, may be
52 committed to the department, and the department shall retain and
53 treat the defendant.

54 (a) No later than 6 months after the date of admission and
55 at the end of any period of extended commitment, or at any time
56 the administrator or designee shall have determined that the
57 defendant has regained competency to proceed or no longer meets
58 the criteria for continued commitment, the administrator or

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59 designee shall file a report with the court pursuant to the
60 applicable Florida Rules of Criminal Procedure.

61 (b) Pursuant to the court order discharging a defendant
62 from a state treatment facility under this section, the
63 defendant shall be provided with up to a 7-day supply of the
64 psychotropic medications he or she is receiving at the time of
65 discharge, which medications shall be transported with the
66 defendant and provided to jail personnel. To the extent it is
67 deemed medically appropriate, the defendant shall be maintained
68 on such medications to accommodate continuity of care and to
69 ensure the ongoing level of treatment that successfully assisted
70 the defendant in attaining competence to proceed or caused the
71 defendant to no longer meet the requirement for continued
72 commitment. The most recent formulary approved by the department
73 shall be used when filling prescriptions for psychotropic
74 medications prescribed to defendants being discharged from state
75 treatment facilities under this section.

76 Section 3. Subsections (1) and (2) of section 916.17,
77 Florida Statutes, are amended to read:

78 916.17 Conditional release.—

79 (1) Except for an inmate currently serving a prison
80 sentence, the committing court may order a conditional release
81 of any defendant in lieu of an involuntary commitment to a
82 facility pursuant to s. 916.13 or s. 916.15 based upon an
83 approved plan for providing appropriate outpatient care and
84 treatment. A county court may order the conditional release of a
85 defendant for purposes of the provision of outpatient care and
86 treatment only. Upon a recommendation that outpatient treatment
87 of the defendant is appropriate, a written plan for outpatient

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88 treatment, including recommendations from qualified
89 professionals, must be filed with the court, with copies to all
90 parties. Such a plan may also be submitted by the defendant and
91 filed with the court with copies to all parties. The plan shall
92 include:

93 (a) Special provisions for residential care or adequate
94 supervision of the defendant.

95 (b) Provisions for outpatient mental health services.

96 (c) If appropriate, recommendations for auxiliary services
97 such as vocational training, educational services, or special
98 medical care.

99

100 In its order of conditional release, the court shall specify the
101 conditions of release based upon the release plan and shall
102 direct the appropriate agencies or persons to submit periodic
103 reports to the court regarding the defendant's compliance with
104 the conditions of the release and progress in treatment, with
105 copies to all parties.

106 (2) Upon the filing of an affidavit or statement under oath
107 by any person that the defendant has failed to comply with the
108 conditions of release, that the defendant's condition has
109 deteriorated to the point that inpatient care is required, or
110 that the release conditions should be modified, the court shall
111 hold a hearing within 7 days after receipt of the affidavit or
112 statement under oath. After the hearing, the court may modify
113 the release conditions. The court may also order that any ~~the~~
114 defendant who is charged with a felony be returned to the
115 department if it is found, after the appointment and report of
116 experts, that the person meets the criteria for involuntary

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117 commitment under s. 916.13 or s. 916.15.

118 Section 4. Section 916.185, Florida Statutes, is created to
119 read:

120 916.185 Forensic Hospital Diversion Pilot Program.-

121 (1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds
122 that many jail inmates who have serious mental illnesses and who
123 are committed to state forensic mental health treatment
124 facilities for restoration of competency to proceed could be
125 served more effectively and at less cost in community-based
126 alternative programs. The Legislature further finds that many
127 people who have serious mental illnesses and who have been
128 discharged from state forensic mental health treatment
129 facilities could avoid recidivism to the criminal justice and
130 forensic mental health systems if they received specialized
131 treatment in the community. Therefore, it is the intent of the
132 Legislature to create the Forensic Hospital Diversion Pilot
133 Program to serve individuals who have mental illnesses or co-
134 occurring mental illnesses and substance use disorders and who
135 are involved in or at risk of entering state forensic mental
136 health treatment facilities, prisons, jails, or state civil
137 mental health treatment facilities.

138 (2) DEFINITIONS.-As used in this section, the term:

139 (a) "Best practices" means treatment services that
140 incorporate the most effective and acceptable interventions
141 available in the care and treatment of individuals who are
142 diagnosed as having mental illnesses or co-occurring mental
143 illnesses and substance use disorders.

144 (b) "Community forensic system" means the community mental
145 health and substance use forensic treatment system, including

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146 the comprehensive set of services and supports provided to
147 individuals involved in or at risk of becoming involved in the
148 criminal justice system.

149 (c) "Evidence-based practices" means interventions and
150 strategies that, based on the best available empirical research,
151 demonstrate effective and efficient outcomes in the care and
152 treatment of individuals who are diagnosed as having mental
153 illnesses or co-occurring mental illnesses and substance use
154 disorders.

155 (3) CREATION.—There is created a Forensic Hospital
156 Diversion Pilot Program that will provide competency-restoration
157 and community-reintegration services in locked residential
158 treatment facilities when appropriate, based on considerations
159 of public safety, the needs of the individual, and available
160 resources.

161 (a) The department shall implement a Forensic Hospital
162 Diversion Pilot Program in Escambia County, in conjunction with
163 the First Judicial Circuit in Escambia County, in Hillsborough
164 County, in conjunction with the Thirteenth Judicial Circuit in
165 Hillsborough County, and in Dade County, in conjunction with the
166 Eleventh Judicial Circuit in Dade County, modeled after the
167 Miami-Dade Forensic Alternative Center, taking into account
168 local needs and resources.

169 (b) In creating and implementing the program, the
170 department shall include a comprehensive continuum of care and
171 services that use evidence-based practices and best practices to
172 treat people who have mental health and co-occurring substance
173 use disorders.

174 (c) The department and the corresponding judicial circuits

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175 shall implement this section within available resources. The
176 department may reallocate resources from forensic mental health
177 programs or other adult mental health programs serving
178 individuals involved in the criminal justice system.

179 (4) ELIGIBILITY.—Participation in the Forensic Hospital
180 Diversion Pilot Program is limited to persons who:

181 (a) Are 18 years of age or older;

182 (b) Are charged with a felony of the second degree or a
183 felony of the third degree;

184 (c) Do not have a significant history of violent criminal
185 offenses;

186 (d) Are adjudicated incompetent to proceed to trial or not
187 guilty by reason of insanity pursuant to this part II;

188 (e) Meet public safety and treatment criteria established
189 by the department for placement in a community setting; and

190 (f) Otherwise would be admitted to a state mental health
191 treatment facility.

192 (5) TRAINING.—The Legislature encourages the Florida
193 Supreme Court, in consultation and cooperation with the Supreme
194 Court Mental Health and Substance Abuse Committee, to develop
195 educational training for judges in the pilot program areas which
196 focuses on the community forensic system.

197 (6) RULEMAKING.—The department may adopt rules under ss.
198 120.536(1) and 120.54 to administer this section.

199 (7) REPORT.—The Office of Program Policy Analysis and
200 Government Accountability shall review and evaluate the Forensic
201 Hospital Diversion Pilot Program and submit a report to the
202 Governor, the President of the Senate, and the Speaker of the
203 House of Representatives by December 31, 2012. The report shall

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204 examine the efficiency and cost-effectiveness of providing
205 forensic services in secure, outpatient, community-based
206 settings. In addition, the report shall examine the impact of
207 the Forensic Hospital Diversion Pilot Program on public health
208 and safety.

209 Section 5. Subsections (1) and (4) of section 951.23,
210 Florida Statutes, are amended to read:

211 951.23 County and municipal detention facilities;
212 definitions; administration; standards and requirements.—

213 (1) DEFINITIONS.—As used in this section, the term:

214 (a) "County detention facility" means a county jail, a
215 county stockade, a county work camp, a county residential
216 probation center, and any other place except a municipal
217 detention facility used by a county or county officer for the
218 detention of persons charged with or convicted of either felony
219 or misdemeanor.

220 (b) "County residential probation center" means a county-
221 operated facility housing offenders serving misdemeanor
222 sentences or first-time felony sentences. Such facilities shall
223 provide or contract for the provision of the programs
224 established under s. 951.231.

225 (c) "County prisoner" means a person who is detained in a
226 county detention facility by reason of being charged with or
227 convicted of either felony or misdemeanor.

228 (d) "Facility" means a county detention facility, county
229 residential probation center, or municipal detention facility.

230 (e) ~~(d)~~ "Municipal detention facility" means a city jail, a
231 city stockade, a city prison camp, and any other place except a
232 county detention facility used by a municipality or municipal

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233 officer for the detention of persons charged with or convicted
234 of violation of municipal laws or ordinances.

235 (f) ~~(e)~~ "Municipal prisoner" means a person who is detained
236 in a municipal detention facility by reason of being charged
237 with or convicted of violation of municipal law or ordinance.

238 (g) ~~(f)~~ "Reduced custody housing area" means that area of a
239 county detention facility or municipal detention facility which
240 is designed to hold a large number of prisoners in a dormitory
241 or barracks-type setting. The area may or may not have a
242 security exterior, limited access, or exterior walls constructed
243 of canvas, cloth, or any material similarly flexible or woven,
244 which is flame resistant and is supported by a structural frame
245 of metal or similar durable material.

246 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL
247 OFFICERS.—

248 (a) There shall be established a five-member working group
249 consisting of three persons appointed by the Florida Sheriffs
250 Association and two persons appointed by the Florida Association
251 of Counties to develop model standards for county and municipal
252 detention facilities. By October 1, 1996, each sheriff and chief
253 correctional officer shall adopt, at a minimum, the model
254 standards with reference to:

255 1.a. The construction, equipping, maintenance, and
256 operation of county and municipal detention facilities.

257 b. The cleanliness and sanitation of county and municipal
258 detention facilities; the number of county and municipal
259 prisoners who may be housed therein per specified unit of floor
260 space; the quality, quantity, and supply of bedding furnished to
261 such prisoners; the quality, quantity, and diversity of food

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262 served to them and the manner in which it is served; the
263 furnishing to them of medical attention and health and comfort
264 items; and the disciplinary treatment which may be meted out to
265 them.

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267 Notwithstanding the provisions of the otherwise applicable
268 building code, a reduced custody housing area may be occupied by
269 inmates or may be used for sleeping purposes as allowed in
270 subsection (7). The sheriff or chief correctional officer shall
271 provide that a reduced custody housing area shall be governed by
272 fire and life safety standards which do not interfere with the
273 normal use of the facility and which affect a reasonable degree
274 of compliance with rules of the State Fire Marshal for
275 correctional facilities.

276 2. The confinement of prisoners by classification and
277 providing, whenever possible, for classifications which separate
278 males from females, juveniles from adults, felons from
279 misdemeanants, and those awaiting trial from those convicted
280 and, in addition, providing for the separation of special risk
281 prisoners, such as the mentally ill, alcohol or narcotic
282 addicts, sex deviates, suicide risks, and any other
283 classification which the local unit may deem necessary for the
284 safety of the prisoners and the operation of the facility
285 pursuant to degree of risk and danger criteria. Nondangerous
286 felons may be housed with misdemeanants.

287 (b) A county or municipal detention facility which stocks
288 medicinal drugs in quantities other than individual
289 prescriptions must obtain the services of a consultant
290 pharmacist or dispensing physician and comply with the licensing

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291 requirements of chapter 465. A facility which has a valid
292 license pursuant to chapter 465 shall have that part of its
293 medical services relating to procedures for the safe handling
294 and storage of medicinal drugs exempt from the inspection
295 requirements of this section. A facility which maintains only
296 individual prescriptions dispensed by a licensed pharmacist is
297 not required to be licensed under chapter 465. All facilities
298 filling prescriptions for psychotropic medications prescribed to
299 defendants discharged from state treatment facilities under s.
300 916.13 or s. 916.15 shall follow the most recent formulary
301 approved by the Department of Children and Family Services.

302 Section 6. This act shall take effect July 1, 2011.