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1 A bill to be entitled
 2 An act relating to forensic services; amending s. 916.105,
 3 F.S.; providing legislative intent that forensic services
 4 be provided to a person charged with a misdemeanor as well
 5 as a felony offense; amending ss. 916.106, 916.107,
 6 916.13, and 916.302, F.S., relating to definitions, the
 7 rights of forensic clients, the involuntary commitment of
 8 a defendant with mental illness, and the involuntary
 9 commitment of a defendant determined to be incompetent;
 10 conforming provisions to changes made by the act;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsection (1) of section 916.105, Florida
 16 Statutes, is amended to read:

17 916.105 Legislative intent.—

18 (1) It is the intent of the Legislature that the
 19 Department of Children and Family Services and the Agency for
 20 Persons with Disabilities, as appropriate, establish, locate,
 21 and maintain separate and secure forensic facilities and
 22 programs for the treatment or training of defendants who have
 23 been charged with a misdemeanor or felony, and who have been
 24 found to be incompetent to proceed due to their mental illness,
 25 mental retardation, or autism, or who have been acquitted of a
 26 misdemeanor or felony by reason of insanity, and who, while
 27 still under the jurisdiction of the committing court, are
 28 committed to the department or agency under the provisions of

29 | this chapter. Such facilities must be able ~~shall be sufficient~~
 30 | to accommodate the number of defendants committed under the
 31 | conditions noted above. Except for those defendants found by the
 32 | department or agency to be appropriate for treatment or training
 33 | in a civil facility or program pursuant to subsection (3),
 34 | forensic facilities shall be designed and administered so that
 35 | ingress and egress, together with other requirements of this
 36 | chapter, may be strictly controlled by staff responsible for
 37 | security in order to protect the defendant, facility personnel,
 38 | other clients, and citizens in adjacent communities.

39 | Section 2. Subsections (6) and (7) of section 916.106,
 40 | Florida Statutes, are amended to read:

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

43 | (6) "Defendant" means an adult, or a juvenile who is
 44 | prosecuted as an adult, who has been arraigned and charged with
 45 | a misdemeanor or felony offense under the laws of this state.

46 | (7) "Department" means the Department of Children and
 47 | Family Services. The department is responsible for the treatment
 48 | of forensic clients who have been determined incompetent to
 49 | proceed due to mental illness or who have been acquitted of a
 50 | misdemeanor or felony by reason of insanity.

51 | Section 3. Paragraph (a) of subsection (1) of section
 52 | 916.107, Florida Statutes, is amended to read:

53 | 916.107 Rights of forensic clients.—

54 | (1) RIGHT TO INDIVIDUAL DIGNITY.—

55 | (a) The policy of the state is that the individual dignity
 56 | of the client shall be respected at all times and upon all

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57 | occasions, including any occasion when the forensic client is
58 | detained, transported, or treated. Clients with mental illness,
59 | retardation, or autism and who are charged with committing a
60 | misdemeanor or felony ~~felonies~~ shall receive appropriate
61 | treatment or training. In a criminal case involving a client who
62 | has been adjudicated incompetent to proceed or not guilty by
63 | reason of insanity, a jail may be used as an emergency facility
64 | for up to 15 days following the date the department or agency
65 | receives a completed copy of the court commitment order
66 | containing all documentation required by the applicable Florida
67 | Rules of Criminal Procedure. For a forensic client who is held
68 | in a jail awaiting admission to a facility of the department or
69 | agency, evaluation and treatment or training may be provided in
70 | the jail by the local community mental health provider for
71 | mental health services, by the developmental disabilities
72 | program for persons with retardation or autism, the client's
73 | physician or psychologist, or any other appropriate program
74 | until the client is transferred to a civil or forensic facility.

75 | Section 4. Section 916.13, Florida Statutes, is amended to
76 | read:

77 | 916.13 Involuntary commitment of defendant adjudicated
78 | incompetent.—

79 | (1) Every defendant who is charged with a misdemeanor or
80 | felony and who is adjudicated incompetent to proceed may be
81 | involuntarily committed for treatment upon a finding by the
82 | court of clear and convincing evidence that:

83 | (a) The defendant has a mental illness and because of the
84 | mental illness:

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85 1. The defendant is manifestly incapable of surviving
86 alone or with the help of willing and responsible family or
87 friends, including available alternative services, and, without
88 treatment, the defendant is likely to suffer from neglect or
89 refuse to care for herself or himself and such neglect or
90 refusal poses a real and present threat of substantial harm to
91 the defendant's well-being; or

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

96 (b) All available, less restrictive treatment
97 alternatives, including treatment in community residential
98 facilities or community inpatient or outpatient settings, which
99 ~~would~~ offer an opportunity for improvement of the defendant's
100 condition have been judged to be inappropriate; and

101 (c) There is a substantial probability that the mental
102 illness causing the defendant's incompetence will respond to
103 treatment and the defendant will regain competency to proceed in
104 the reasonably foreseeable future.

105 (2) A defendant who has been charged with a misdemeanor or
106 felony and who has been adjudicated incompetent to proceed due
107 to mental illness, and who meets the criteria for involuntary
108 commitment to the department under ~~the provisions of~~ this
109 chapter, may be committed to the department, and the department
110 shall retain and treat the defendant. No later than 6 months
111 after the date of admission and at the end of any period of
112 extended commitment, or at any time the administrator or

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113 | designee shall have determined that the defendant has regained
114 | competency to proceed or no longer meets the criteria for
115 | continued commitment, the administrator or designee shall file a
116 | report with the court pursuant to the applicable Florida Rules
117 | of Criminal Procedure.

118 | Section 5. Subsection (1) and paragraph (a) of subsection
119 | (2) of section 916.302, Florida Statutes, are amended to read:

120 | 916.302 Involuntary commitment of defendant determined to
121 | be incompetent to proceed.—

122 | (1) CRITERIA.—Every defendant who is charged with a
123 | misdemeanor or felony and who is adjudicated incompetent to
124 | proceed due to retardation or autism may be involuntarily
125 | committed for training upon a finding by the court of clear and
126 | convincing evidence that:

127 | (a) The defendant has retardation or autism;

128 | (b) There is a substantial likelihood that in the near
129 | future the defendant will inflict serious bodily harm on himself
130 | or herself or another person, as evidenced by recent behavior
131 | causing, attempting, or threatening such harm;

132 | (c) All available, less restrictive alternatives,
133 | including services provided in community residential facilities
134 | or other community settings, which ~~would~~ offer an opportunity
135 | for improvement of the condition have been judged to be
136 | inappropriate; and

137 | (d) There is a substantial probability that the
138 | retardation or autism causing the defendant's incompetence will
139 | respond to training and the defendant will regain competency to
140 | proceed in the reasonably foreseeable future.

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141 (2) ADMISSION TO A FACILITY.—

142 (a) A defendant who has been charged with a misdemeanor or
 143 felony and who is found to be incompetent to proceed due to
 144 retardation or autism, and who meets the criteria for
 145 involuntary commitment to the agency under ~~the provisions of~~
 146 this chapter, shall be committed to the agency, and the agency
 147 shall retain and provide appropriate training for the defendant.
 148 Within ~~No later than~~ 6 months after the date of admission or at
 149 the end of any period of extended commitment or at any time the
 150 administrator or designee shall have determined that the
 151 defendant has regained competency to proceed or no longer meets
 152 the criteria for continued commitment, the administrator or
 153 designee shall file a report with the court pursuant to this
 154 chapter and the applicable Florida Rules of Criminal Procedure.

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