

**FOR CONSIDERATION By** the Committee on Children, Families, and Elder Affairs

586-02503A-11

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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" for purposes of the Forensic Client  
5           Services Act to include county courts; amending s.  
6           916.13, F.S.; requiring the Department of Children and  
7           Family Services to provide a discharged defendant with  
8           a 7-day supply of psychotropic medication when he or  
9           she is returning to jail from a state treatment  
10          facility; requiring the department to prescribe a  
11          specified formulary when filling prescriptions for  
12          psychotropic medications; creating s. 916.185, F.S.;  
13          creating the Forensic Hospital Diversion Pilot  
14          Program; providing legislative intent; providing  
15          definitions; requiring the department to implement a  
16          Forensic Hospital Diversion Pilot Program in two  
17          specified judicial circuits; providing the scope of  
18          eligibility for the pilot program; providing  
19          legislative intent concerning training; authorizing  
20          the department to adopt rules; directing the Office of  
21          Program Policy Analysis and Government Accountability  
22          to submit a report to the Governor and Legislature;  
23          amending s. 951.23, F.S.; defining the term "facility"  
24          for purposes of the administration of county and  
25          municipal detention facilities to include detention  
26          facilities and residential probation centers;  
27          requiring county and municipal detention facilities to  
28          use a formulary approved by the Department of Children  
29          and Family Services when prescribing psychotropic

586-02503A-11

20117078\_\_

30 medications for defendants discharged from state  
31 treatment facilities; providing an effective date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Subsection (5) of section 916.106, Florida  
36 Statutes, is amended to read:

37 916.106 Definitions.—For the purposes of this chapter, the  
38 term:

39 (5) "Court" means the circuit or county court.

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

42 916.13 Involuntary commitment of defendant adjudicated  
43 incompetent.—

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

50 (a) No later than 6 months after the date of admission and  
51 at the end of any period of extended commitment, or at any time  
52 the administrator or designee shall have determined that the  
53 defendant has regained competency to proceed or no longer meets  
54 the criteria for continued commitment, the administrator or  
55 designee shall file a report with the court pursuant to the  
56 applicable Florida Rules of Criminal Procedure.

57 (b) Pursuant to the court order finding a defendant  
58 competent to proceed, a defendant who is being discharged from a

586-02503A-11

20117078

59 state treatment facility under this section shall be provided a  
60 7-day supply of the psychotropic medications he or she is  
61 receiving at the time of discharge, which medications shall be  
62 transported with the defendant and provided to jail personnel.  
63 The defendant shall be maintained on such medications to  
64 accommodate continuity of care and to ensure the ongoing level  
65 of treatment that successfully assisted the defendant in  
66 attaining competence to proceed or caused the defendant to no  
67 longer meet the requirement for continued commitment. The most  
68 recent Florida State Hospital formulary approved by the  
69 department shall be used when filling prescriptions for  
70 psychotropic medications prescribed to defendants being  
71 discharged from state treatment facilities under this section.

72 Section 3. Section 916.185, Florida Statutes, is created to  
73 read:

74 916.185 Forensic Hospital Diversion Pilot Program.—

75 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
76 that many jail inmates who have serious mental illnesses and who  
77 are committed to state forensic mental health treatment  
78 facilities for restoration of competency to proceed could be  
79 served more effectively and at less cost in community-based  
80 alternative programs. The Legislature further finds that many  
81 people who have serious mental illnesses and who have been  
82 discharged from state forensic mental health treatment  
83 facilities could avoid recidivism to the criminal justice and  
84 forensic mental health systems if they received specialized  
85 treatment in the community. Therefore, it is the intent of the  
86 Legislature to create the Forensic Hospital Diversion Pilot  
87 Program to serve individuals who have mental illnesses or co-

586-02503A-11

20117078

88 occurring mental illnesses and substance use disorders and who  
89 are involved in or at risk of entering state forensic mental  
90 health treatment facilities, prisons, jails, or state civil  
91 mental health treatment facilities.

92 (2) DEFINITIONS.—As used in this section, the term:

93 (a) "Best practices" means treatment services that  
94 incorporate the most effective and acceptable interventions  
95 available in the care and treatment of individuals who are  
96 diagnosed as having mental illnesses or co-occurring mental  
97 illnesses and substance use disorders.

98 (b) "Community forensic system" means the community mental  
99 health and substance use forensic treatment system, including  
100 the comprehensive set of services and supports provided to  
101 individuals involved in or at risk of becoming involved in the  
102 criminal justice system.

103 (c) "Evidence-based practices" means interventions and  
104 strategies that, based on the best available empirical research,  
105 demonstrate effective and efficient outcomes in the care and  
106 treatment of individuals who are diagnosed as having mental  
107 illnesses or co-occurring mental illnesses and substance use  
108 disorders.

109 (3) CREATION.—There is created a Forensic Hospital  
110 Diversion Pilot Program that will provide competency-restoration  
111 and community-reintegration services in locked residential  
112 treatment facilities when appropriate, based on considerations  
113 of public safety, the needs of the individual, and available  
114 resources.

115 (a) The department shall implement a Forensic Hospital  
116 Diversion Pilot Program in Escambia County, in conjunction with

586-02503A-11

20117078

117 the First Judicial Circuit in Escambia County, and in  
118 Hillsborough County, in conjunction with the Thirteenth Judicial  
119 Circuit in Hillsborough County, modeled after the Miami-Dade  
120 Forensic Alternative Center, taking into account local needs and  
121 resources.

122 (b) In creating and implementing the program, the  
123 department shall include a comprehensive continuum of care and  
124 services that use evidence-based practices and best practices to  
125 treat people who have mental health and co-occurring substance  
126 use disorders.

127 (c) The department and the corresponding judicial circuits  
128 shall implement this section within available resources. The  
129 department may reallocate resources from forensic mental health  
130 programs or other adult mental health programs serving  
131 individuals involved in the criminal justice system.

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

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

135 (b) Are charged with a nonviolent felony of the second  
136 degree or a nonviolent felony of the third degree;

137 (c) Are adjudicated incompetent to proceed to trial or not  
138 guilty by reason of insanity pursuant to this chapter;

139 (d) Meet public safety and treatment criteria established  
140 by the department for placement in a community setting; and

141 (e) Otherwise would be admitted to a state mental health  
142 treatment facility.

143 (5) TRAINING.—The Legislature encourages the Florida  
144 Supreme Court, in consultation and cooperation with the Supreme  
145 Court Mental Health and Substance Abuse Committee, to develop

586-02503A-11

20117078\_\_

146 educational training for judges in the pilot program areas which  
147 focuses on the community forensic system.

148 (6) RULEMAKING.—The department may adopt rules under ss.  
149 120.536(1) and 120.54 to administer this section.

150 (7) REPORT.—The Office of Program Policy Analysis and  
151 Government Accountability shall review and evaluate the Forensic  
152 Hospital Diversion Pilot Program and submit a report to the  
153 Governor, the President of the Senate, and the Speaker of the  
154 House of Representatives by December 31, 2012. The report shall  
155 examine the efficiency and cost-effectiveness of providing  
156 forensic services in secure, outpatient, community-based  
157 settings. In addition, the report shall examine the impact of  
158 the Forensic Hospital Diversion Pilot Program on public health  
159 and safety.

160 Section 4. Subsections (1) and (4) of section 951.23,  
161 Florida Statutes, are amended to read:

162 951.23 County and municipal detention facilities;  
163 definitions; administration; standards and requirements.—

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

165 (a) "County detention facility" means a county jail, a  
166 county stockade, a county work camp, a county residential  
167 probation center, and any other place except a municipal  
168 detention facility used by a county or county officer for the  
169 detention of persons charged with or convicted of either felony  
170 or misdemeanor.

171 (b) "County residential probation center" means a county-  
172 operated facility housing offenders serving misdemeanor  
173 sentences or first-time felony sentences. Such facilities shall  
174 provide or contract for the provision of the programs

586-02503A-11

20117078

175 established under s. 951.231.

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

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

181 (e)~~(d)~~ "Municipal detention facility" means a city jail, a  
182 city stockade, a city prison camp, and any other place except a  
183 county detention facility used by a municipality or municipal  
184 officer for the detention of persons charged with or convicted  
185 of violation of municipal laws or ordinances.

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

189 (g)~~(f)~~ "Reduced custody housing area" means that area of a  
190 county detention facility or municipal detention facility which  
191 is designed to hold a large number of prisoners in a dormitory  
192 or barracks-type setting. The area may or may not have a  
193 security exterior, limited access, or exterior walls constructed  
194 of canvas, cloth, or any material similarly flexible or woven,  
195 which is flame resistant and is supported by a structural frame  
196 of metal or similar durable material.

197 (4) STANDARDS FOR SHERIFFS AND CHIEF CORRECTIONAL  
198 OFFICERS.—

199 (a) There shall be established a five-member working group  
200 consisting of three persons appointed by the Florida Sheriffs  
201 Association and two persons appointed by the Florida Association  
202 of Counties to develop model standards for county and municipal  
203 detention facilities. By October 1, 1996, each sheriff and chief

586-02503A-11

20117078\_\_

204 correctional officer shall adopt, at a minimum, the model  
205 standards with reference to:

206 1.a. The construction, equipping, maintenance, and  
207 operation of county and municipal detention facilities.

208 b. The cleanliness and sanitation of county and municipal  
209 detention facilities; the number of county and municipal  
210 prisoners who may be housed therein per specified unit of floor  
211 space; the quality, quantity, and supply of bedding furnished to  
212 such prisoners; the quality, quantity, and diversity of food  
213 served to them and the manner in which it is served; the  
214 furnishing to them of medical attention and health and comfort  
215 items; and the disciplinary treatment which may be meted out to  
216 them.

217  
218 Notwithstanding the provisions of the otherwise applicable  
219 building code, a reduced custody housing area may be occupied by  
220 inmates or may be used for sleeping purposes as allowed in  
221 subsection (7). The sheriff or chief correctional officer shall  
222 provide that a reduced custody housing area shall be governed by  
223 fire and life safety standards which do not interfere with the  
224 normal use of the facility and which affect a reasonable degree  
225 of compliance with rules of the State Fire Marshal for  
226 correctional facilities.

227 2. The confinement of prisoners by classification and  
228 providing, whenever possible, for classifications which separate  
229 males from females, juveniles from adults, felons from  
230 misdemeanants, and those awaiting trial from those convicted  
231 and, in addition, providing for the separation of special risk  
232 prisoners, such as the mentally ill, alcohol or narcotic

586-02503A-11

20117078\_\_

233 addicts, sex deviates, suicide risks, and any other  
234 classification which the local unit may deem necessary for the  
235 safety of the prisoners and the operation of the facility  
236 pursuant to degree of risk and danger criteria. Nondangerous  
237 felons may be housed with misdemeanants.

238 (b) A county or municipal detention facility which stocks  
239 medicinal drugs in quantities other than individual  
240 prescriptions must obtain the services of a consultant  
241 pharmacist or dispensing physician and comply with the licensing  
242 requirements of chapter 465. A facility which has a valid  
243 license pursuant to chapter 465 shall have that part of its  
244 medical services relating to procedures for the safe handling  
245 and storage of medicinal drugs exempt from the inspection  
246 requirements of this section. A facility which maintains only  
247 individual prescriptions dispensed by a licensed pharmacist is  
248 not required to be licensed under chapter 465. All facilities  
249 filling prescriptions for psychotropic medications prescribed to  
250 defendants discharged from state treatment facilities under s.  
251 916.13 shall follow the most recent Florida State Hospital  
252 formulary approved by the Department of Children and Family  
253 Services.

254 Section 5. This act shall take effect July 1, 2011.