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1 A bill to be entitled  
2 An act relating to intellectual disabilities; amending  
3 s. 39.502, F.S.; substituting the Arc of Florida for  
4 the Association for Retarded Citizens for purposes of  
5 certain proceedings relating to children; amending ss.  
6 40.013, 86.041, 92.53, 92.54, and 92.55, F.S.;  
7 substituting the term "intellectual disability" for  
8 the term "mental retardation"; amending s. 320.10,  
9 F.S.; substituting the Arc of Florida for the  
10 Association for Retarded Citizens; amending ss.  
11 383.14, 393.063, 393.11, and 394.455, F.S.;  
12 substituting the term "intellectual disability" for  
13 the term "mental retardation"; clarifying in s.  
14 393.063, that the meaning of the terms "intellectual  
15 disability" or "intellectually disabled" is the same  
16 as the meaning of the terms "mental retardation,"  
17 "retarded," and "mentally retarded" for purposes of  
18 matters relating to the criminal laws and court rules;  
19 amending s. 400.960, F.S.; revising definitions  
20 relating to intermediate care facilities for the  
21 developmentally disabled to delete unused terms;  
22 amending s. 408.032, F.S.; conforming a cross-  
23 reference; amending s. 409.908, F.S.; substituting the  
24 term "intellectually disabled" for the term "mentally  
25 retarded"; amending ss. 413.20, 440.49, and 499.0054,  
26 F.S.; substituting the term "intellectual disability"  
27 for the term "mental retardation"; amending s.  
28 514.072, F.S.; conforming a cross-reference and

29 deleting obsolete provisions; amending ss. 627.6041,  
 30 627.6615, 641.31, 650.05, 765.204, 849.04, 914.16,  
 31 914.17, 916.105, and 916.106, F.S.; substituting the  
 32 term "intellectual disability" for the term "mental  
 33 retardation"; amending s. 916.107, F.S.; substituting  
 34 the term "intellectual disability" for the term  
 35 "retardation"; providing a directive to the Division  
 36 of Law Revision and Information; amending ss. 916.301,  
 37 916.3012, 916.302, 916.3025, 916.303, 916.304, 918.16,  
 38 921.137, 941.38, 944.602, 945.025, 945.12, 945.42,  
 39 947.185, 984.19, 985.14, 985.145, 985.18, 985.19,  
 40 985.195, and 985.61, F.S.; clarifying in s. 921.137,  
 41 F.S., that the terms "intellectual disability" or  
 42 "intellectually disabled" are interchangeable with and  
 43 have the same meaning as the terms "mental  
 44 retardation," or "retardation" and "mentally  
 45 retarded," as defined before the effective date of the  
 46 act; substituting the term "intellectual disability"  
 47 for the term "mental retardation"; expressing  
 48 legislative intent; providing an effective date.

49  
 50 Be It Enacted by the Legislature of the State of Florida:

51  
 52 Section 1. Subsection (15) of section 39.502, Florida  
 53 Statutes, is amended to read:

54 39.502 Notice, process, and service.—

55 (15) A party who is identified as a person who has a ~~with~~  
 56 mental illness or ~~with~~ a developmental disability must be

57 informed by the court of the availability of advocacy services  
 58 through the department, the Arc of Florida ~~Association for~~  
 59 ~~Retarded Citizens~~, or other appropriate mental health or  
 60 developmental disability advocacy groups and encouraged to seek  
 61 such services.

62 Section 2. Subsection (9) of section 40.013, Florida  
 63 Statutes, is amended to read:

64 40.013 Persons disqualified or excused from jury service.—

65 (9) Any person who is responsible for the care of a person  
 66 who, because of mental illness, intellectual disability ~~mental~~  
 67 ~~retardation~~, senility, or other physical or mental incapacity,  
 68 is incapable of caring for himself or herself shall be excused  
 69 from jury service upon request.

70 Section 3. Section 86.041, Florida Statutes, is amended to  
 71 read:

72 86.041 Actions by executors, administrators, trustees,  
 73 etc.—Any person interested as or through an executor,  
 74 administrator, trustee, guardian, or other fiduciary, creditor,  
 75 devisee, legatee, heir, next of kin, or cestui que trust, in the  
 76 administration of a trust, a guardianship, or ~~of~~ the estate of a  
 77 decedent, an infant, a mental incompetent, or insolvent may have  
 78 a declaration of rights or equitable or legal relations to ~~in~~  
 79 ~~respect thereto~~:

80 (1) ~~To~~ Ascertain any class of creditors, devisees,  
 81 legatees, heirs, next of kin, or others; ~~or~~

82 (2) ~~To~~ Direct the executor, administrator, or trustee to  
 83 refrain from doing any particular act in his or her fiduciary  
 84 capacity; or

85 (3) ~~To~~ Determine any question relating to ~~arising in~~ the  
 86 administration of the guardianship, estate, or trust, including  
 87 questions of construction of wills and other writings.

88  
 89 For the purpose of this section, a "mental incompetent" is one  
 90 who, because of mental illness, intellectual disability ~~mental~~  
 91 ~~retardation~~, senility, excessive use of drugs or alcohol, or  
 92 other mental incapacity, is incapable of ~~either~~ managing his or  
 93 her property or caring for himself or herself, or both.

94 Section 4. Section 92.53, Florida Statutes, is amended to  
 95 read:

96 92.53 Videotaping the ~~of~~ testimony of a victim or witness  
 97 under age 16 or who has an intellectual disability ~~person with~~  
 98 ~~mental retardation~~.-

99 (1) On motion and hearing in camera and a finding that  
 100 there is a substantial likelihood that a victim or witness who  
 101 is under the age of 16 or who has an intellectual disability ~~is~~  
 102 ~~a person with mental retardation~~ as defined in s. 393.063 would  
 103 suffer at least moderate emotional or mental harm due to the  
 104 presence of the defendant if such victim or witness ~~the child or~~  
 105 ~~person with mental retardation~~ is required to testify in open  
 106 court, or ~~that such victim or witness~~ is otherwise unavailable  
 107 as defined in s. 90.804(1), the trial court may order the  
 108 videotaping of the testimony of the victim or witness in a case,  
 109 whether civil or criminal in nature, in which videotaped  
 110 testimony is to be used ~~utilized~~ at trial in lieu of trial  
 111 testimony in open court.

112 (2) The motion may be filed by:

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113 (a) The victim or witness, or the victim's or witness's  
114 attorney, parent, legal guardian, or guardian ad litem;

115 (b) A trial judge on his or her own motion;

116 (c) Any party in a civil proceeding; or

117 (d) The prosecuting attorney or the defendant, or the  
118 defendant's counsel.

119 (3) The judge shall preside, or shall appoint a special  
120 master to preside, at the videotaping unless ~~the following~~  
121 ~~conditions are met:~~

122 (a) The child or the person who has the intellectual  
123 disability ~~with mental retardation~~ is represented by a guardian  
124 ad litem or counsel;

125 (b) The representative of the victim or witness and the  
126 counsel for each party stipulate that the requirement for the  
127 presence of the judge or special master may be waived; and

128 (c) The court finds at a hearing on the motion that the  
129 presence of a judge or special master is not necessary to  
130 protect the victim or witness.

131 (4) The defendant and the defendant's counsel must ~~shall~~  
132 be present at the videotaping, unless the defendant has waived  
133 this right. The court may require the defendant to view the  
134 testimony from outside the presence of the child or the person  
135 who has an intellectual disability ~~with mental retardation~~ by  
136 means of a two-way mirror or another similar method that ensures  
137 ~~will ensure~~ that the defendant can observe and hear the  
138 testimony of the victim or witness in person, but ~~that~~ the  
139 victim or witness cannot hear or see the defendant. The  
140 defendant and the attorney for the defendant may communicate by

141 any appropriate private method.

142 (5) Any party, or the court on its own motion, may request  
 143 the aid of an interpreter, as provided in s. 90.606, to aid the  
 144 parties in formulating methods of questioning the child or  
 145 person who has the intellectual disability ~~with mental~~  
 146 ~~retardation~~ and in interpreting the answers of the child or  
 147 person during ~~with mental retardation throughout~~ proceedings  
 148 conducted under this section.

149 (6) The motion referred to in subsection (1) may be made  
 150 at any time with reasonable notice to each party to the cause,  
 151 and videotaping of testimony may be made any time after the  
 152 court grants the motion. The videotaped testimony is ~~shall be~~  
 153 admissible as evidence in the trial of the cause; however, such  
 154 testimony is ~~shall~~ not be admissible in any trial or proceeding  
 155 in which such witness testifies by use of closed circuit  
 156 television pursuant to s. 92.54.

157 (7) The court shall make specific findings of fact, on the  
 158 record, as to the basis for its ruling under this section.

159 Section 5. Section 92.54, Florida Statutes, is amended to  
 160 read:

161 92.54 Use of closed circuit television in proceedings  
 162 involving a victim or witness ~~victims or witnesses~~ under the age  
 163 of 16 or who has an intellectual disability ~~persons with mental~~  
 164 ~~retardation.~~

165 (1) Upon motion and hearing in camera and upon a finding  
 166 that there is a substantial likelihood that a victim or witness  
 167 under the age of 16 or who has an intellectual disability ~~the~~  
 168 ~~child or person with mental retardation~~ will suffer at least

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169 moderate emotional or mental harm due to the presence of the  
170 defendant if such victim or witness ~~the child or person with~~  
171 ~~mental retardation~~ is required to testify in open court, or ~~that~~  
172 ~~such victim or witness~~ is unavailable as defined in s.  
173 90.804(1), the trial court may order that the testimony of the a  
174 ~~child under the age of 16 or person with mental retardation who~~  
175 ~~is a~~ victim or witness be taken outside of the courtroom and  
176 shown by means of closed circuit television.

177 (2) The motion may be filed by the victim or witness; the  
178 attorney, parent, legal guardian, or guardian ad litem of the  
179 victim or witness; the prosecutor; the defendant or the  
180 defendant's counsel; or the trial judge on his or her own  
181 motion.

182 (3) Only the judge, the prosecutor, the defendant, the  
183 attorney for the defendant, the operators of the videotape  
184 equipment, an interpreter, and some other person who, in the  
185 opinion of the court, contributes to the well-being of the child  
186 or the person who has an intellectual disability ~~with mental~~  
187 ~~retardation~~ and who will not be a witness in the case may be in  
188 the room during the recording of the testimony.

189 (4) During the victim's or witness's ~~child's or person's~~  
190 ~~with mental retardation~~ testimony by closed circuit television,  
191 the court may require the defendant to view the testimony from  
192 the courtroom. In such a case, the court shall permit the  
193 defendant to observe and hear the testimony of the victim or  
194 witness ~~child or person with mental retardation~~, but must ~~shall~~  
195 ensure that the victim or witness ~~child or person with mental~~  
196 ~~retardation~~ cannot hear or see the defendant. The defendant's

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197 right to assistance of counsel, which includes the right to  
 198 immediate and direct communication with counsel conducting  
 199 cross-examination, must be protected and, upon the defendant's  
 200 request, such communication must ~~shall~~ be provided by any  
 201 appropriate electronic method.

202 (5) The court shall make specific findings of fact, on the  
 203 record, as to the basis for its ruling under this section.

204 Section 6. Section 92.55, Florida Statutes, is amended to  
 205 read:

206 92.55 Judicial or other proceedings involving victim or  
 207 witness under the age of 16 or person who has an intellectual  
 208 disability ~~with mental retardation~~; special protections; use of  
 209 registered service or therapy animals.-

210 (1) Upon motion of any party, upon motion of a parent,  
 211 guardian, attorney, or guardian ad litem for a victim or witness  
 212 ~~child~~ under the age of 16 or person who has an intellectual  
 213 disability ~~with mental retardation~~, or upon its own motion, the  
 214 court may enter any order necessary to protect such a child  
 215 ~~under the age of 16 or person with mental retardation who is a~~  
 216 victim or witness in any judicial proceeding or other official  
 217 proceeding from severe emotional or mental harm due to the  
 218 presence of the defendant if the victim or witness ~~child or~~  
 219 ~~person with mental retardation~~ is required to testify in open  
 220 court. Such orders must ~~shall~~ relate to the taking of testimony  
 221 and ~~shall~~ include, but are not ~~be~~ limited to:

222 (a) Interviewing or the taking of depositions as part of a  
 223 civil or criminal proceeding.

224 (b) Examination and cross-examination for the purpose of



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225 | qualifying as a witness or testifying in any proceeding.

226 |       (c) The use of testimony taken outside of the courtroom,  
227 | including proceedings under ss. 92.53 and 92.54.

228 |       (2) In ruling upon the motion, the court shall consider  
229 | ~~take into consideration~~:

230 |       (a) The age of the child, the nature of the offense or  
231 | act, the relationship of the child to the parties in the case or  
232 | to the defendant in a criminal action, the degree of emotional  
233 | trauma that will result to the child as a consequence of the  
234 | defendant's presence, and any other fact that the court deems  
235 | relevant; or

236 |       (b) The age of the person who has an intellectual  
237 | disability ~~with mental retardation~~, the functional capacity of  
238 | such ~~the person with mental retardation~~, the nature of the  
239 | offenses or act, the relationship of the person ~~with mental~~  
240 | ~~retardation~~ to the parties in the case or to the defendant in a  
241 | criminal action, the degree of emotional trauma that will result  
242 | to the person ~~with mental retardation~~ as a consequence of the  
243 | defendant's presence, and any other fact that the court deems  
244 | relevant.

245 |       (3) In addition to such other relief ~~as is~~ provided by  
246 | law, the court may enter orders limiting the number of times  
247 | that a child or a person who has an intellectual disability ~~with~~  
248 | ~~mental retardation~~ may be interviewed, prohibiting depositions  
249 | of such ~~a child or person with mental retardation~~, requiring the  
250 | submission of questions before the ~~prior to~~ examination of the ~~a~~  
251 | child or person ~~with mental retardation~~, setting the place and  
252 | conditions for interviewing the ~~a~~ child or person ~~with mental~~

253 | ~~retardation~~ or for conducting any other proceeding, or  
 254 | permitting or prohibiting the attendance of any person at any  
 255 | proceeding. The court shall enter any order necessary to protect  
 256 | the rights of all parties, including the defendant in any  
 257 | criminal action.

258 | (4) The court may set any other conditions it finds just  
 259 | and appropriate when ~~on the~~ taking the ~~of~~ testimony of ~~by~~ a  
 260 | child, including the use of a service or therapy animal that has  
 261 | been evaluated and registered according to national standards,  
 262 | in any proceeding involving a sexual offense. When deciding  
 263 | whether to permit a child to testify with the assistance of a  
 264 | registered service or therapy animal, the court shall consider  
 265 | ~~take into consideration~~ the age of the child, the interests of  
 266 | the child, the rights of the parties to the litigation, and any  
 267 | other relevant factor that would facilitate the testimony by the  
 268 | child.

269 | Section 7. Subsection (1) of section 320.10, Florida  
 270 | Statutes, is amended to read:

271 | 320.10 Exemptions.—

272 | (1) The provisions of s. 320.08 do not apply to:

273 | (a) Any motor vehicle or mobile home owned by, and  
 274 | operated exclusively for the personal use of, any member of the  
 275 | United States Armed Forces who is not a resident of this state  
 276 | and who is stationed in the state while in compliance with  
 277 | military or naval orders;

278 | (b) Any motor vehicle owned or operated exclusively by the  
 279 | Federal Government;

280 | (c) Any motor vehicle owned and operated exclusively for

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281 the benefit of the Boys' Clubs of America, the National Audubon  
282 Society, the National Children's Cardiac Hospital, any humane  
283 society, any nationally chartered veterans' organization that  
284 maintains a state headquarters in this state, the Children's  
285 Bible Mission, the Boy Scouts of America, the Girl Scouts of  
286 America, the Salvation Army, the American National Red Cross,  
287 the United Service Organization, any local member unit of the  
288 National Urban League which provides free services to municipal  
289 and county residents who are in need of such services, the Young  
290 Men's Christian Association, the Young Men's Hebrew Association,  
291 the Camp Fire Girls' Council, the Young Women's Christian  
292 Association, the Young Women's Hebrew Association, any local  
293 member unit of the Arc of Florida ~~Association for Retarded~~  
294 ~~Citizens~~, the Children's Home Society of Florida, or the  
295 Goodwill Industries. A not-for-profit organization named in this  
296 paragraph and its local affiliate organizations is ~~shall be~~  
297 eligible for the exemption if it ~~for so long as each~~ maintains  
298 current articles of incorporation on file with the Department of  
299 State and qualifies as a not-for-profit organization under s.  
300 212.08;

301 (d) Any motor vehicle owned and operated by a church,  
302 temple, or synagogue for exclusive use as a community service  
303 van or to transport passengers without compensation to religious  
304 services or for religious education;

305 (e) Any motor vehicle owned and operated by the Civil Air  
306 Patrol or the United States Coast Guard Auxiliary;

307 (f) Any mobile blood bank unit when operated as a  
308 nonprofit service by an organization;

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309 (g) Any mobile X-ray unit or truck or bus used exclusively  
310 for public health purposes;

311 (h) Any school bus owned and operated by a nonprofit  
312 educational or religious corporation;

313 (i) Any vehicle used by any of the various search and  
314 rescue units of the several counties for exclusive use as a  
315 search and rescue vehicle; or ~~and~~

316 (j) Any motor vehicle used by a community transportation  
317 coordinator or a transportation operator as defined in part I of  
318 chapter 427, and which is used exclusively to transport  
319 transportation disadvantaged persons.

320 Section 8. Paragraph (d) of subsection (3) of section  
321 383.14, Florida Statutes, is amended to read:

322 383.14 Screening for metabolic disorders, other hereditary  
323 and congenital disorders, and environmental risk factors.—

324 (3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The  
325 department shall administer and provide certain services to  
326 implement the provisions of this section and shall:

327 (d) Maintain a confidential registry of cases, including  
328 information of importance for the purpose of followup services  
329 to prevent intellectual disabilities ~~mental retardation~~, to  
330 correct or ameliorate physical disabilities ~~handicaps~~, and for  
331 epidemiologic studies, if indicated. Such registry shall be  
332 exempt from the provisions of s. 119.07(1).

333

334 All provisions of this subsection must be coordinated with the  
335 provisions and plans established under this chapter, chapter  
336 411, and Pub. L. No. 99-457.

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337 Section 9. Subsection (9) and subsections (21) through  
338 (32) of section 393.063, Florida Statutes, are reordered and  
339 amended to read:

340 393.063 Definitions.—For the purposes of this chapter, the  
341 term:

342 (9) "Developmental disability" means a disorder or  
343 syndrome that is attributable to intellectual disability  
344 ~~retardation~~, cerebral palsy, autism, spina bifida, or Prader-  
345 Willi syndrome; that manifests before the age of 18; and that  
346 constitutes a substantial handicap that can reasonably be  
347 expected to continue indefinitely.

348 ~~(22)~~(21) "Intermediate care facility for the  
349 developmentally disabled" or "ICF/DD" means a residential  
350 facility licensed and certified under ~~pursuant to~~ part VIII of  
351 chapter 400.

352 ~~(23)~~(22) "Medical/dental services" means medically  
353 necessary services that ~~which~~ are provided or ordered for a  
354 client by a person licensed under chapter 458, chapter 459, or  
355 chapter 466. Such services may include, but are not limited to,  
356 prescription drugs, specialized therapies, nursing supervision,  
357 hospitalization, dietary services, prosthetic devices, surgery,  
358 specialized equipment and supplies, adaptive equipment, and  
359 other services as required to prevent or alleviate a medical or  
360 dental condition.

361 ~~(24)~~(23) "Personal care services" means individual  
362 assistance with or supervision of essential activities of daily  
363 living for self-care, including ambulation, bathing, dressing,  
364 eating, grooming, and toileting, and other similar services that

365 are incidental to the care furnished and essential to the  
 366 health, safety, and welfare of the client if ~~when there is~~ no  
 367 one else is available to perform those services.

368 ~~(25)-(24)~~ "Prader-Willi syndrome" means an inherited  
 369 condition typified by neonatal hypotonia with failure to thrive,  
 370 hyperphagia or an excessive drive to eat which leads to obesity  
 371 usually at 18 to 36 months of age, mild to moderate intellectual  
 372 disability ~~mental retardation~~, hypogonadism, short stature, mild  
 373 facial dysmorphism, and a characteristic neurobehavior.

374 ~~(26)-(25)~~ "Relative" means an individual who is connected  
 375 by affinity or consanguinity to the client and who is 18 years  
 376 of age or older.

377 ~~(27)-(26)~~ "Resident" means a any person who has a with  
 378 developmental disability and resides ~~disabilities residing~~ at a  
 379 residential facility, whether or not such person is a client of  
 380 the agency.

381 ~~(28)-(27)~~ "Residential facility" means a facility providing  
 382 room and board and personal care for persons who have with  
 383 developmental disabilities.

384 ~~(29)-(28)~~ "Residential habilitation" means supervision and  
 385 training with the acquisition, retention, or improvement in  
 386 skills related to activities of daily living, such as personal  
 387 hygiene skills, homemaking skills, and the social and adaptive  
 388 skills necessary to enable the individual to reside in the  
 389 community.

390 ~~(30)-(29)~~ "Residential habilitation center" means a  
 391 community residential facility licensed under this chapter which  
 392 provides habilitation services. The capacity of such a facility

393 | may ~~shall~~ not be fewer than nine residents. After October 1,  
 394 | 1989, new residential habilitation centers may not be licensed  
 395 | and the licensed capacity for any existing residential  
 396 | habilitation center may not be increased.

397 |        (31) ~~(30)~~ "Respite service" means appropriate, short-term,  
 398 | temporary care that is provided to a person who has a ~~with~~  
 399 | developmental disability in order ~~disabilities~~ to meet the  
 400 | planned or emergency needs of the person or the family or other  
 401 | direct service provider.

402 |        (32) ~~(31)~~ "Restraint" means a physical device, method, or  
 403 | drug used to control dangerous behavior.

404 |        (a) A physical restraint is any manual method or physical  
 405 | or mechanical device, material, or equipment attached or  
 406 | adjacent to an ~~the~~ individual's body so that he or she cannot  
 407 | easily remove the restraint and which restricts freedom of  
 408 | movement or normal access to one's body.

409 |        (b) A drug used as a restraint is a medication used to  
 410 | control the person's behavior or to restrict his or her freedom  
 411 | of movement and is not a standard treatment for the person's  
 412 | medical or psychiatric condition. Physically holding a person  
 413 | during a procedure to forcibly administer psychotropic  
 414 | medication is a physical restraint.

415 |        (c) Restraint does not include physical devices, such as  
 416 | orthopedically prescribed appliances, surgical dressings and  
 417 | bandages, supportive body bands, or other physical holding ~~when~~  
 418 | necessary for routine physical examinations and tests; for  
 419 | purposes of orthopedic, surgical, or other similar medical  
 420 | treatment; ~~when used~~ to provide support for the achievement of

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421 functional body position or proper balance; or ~~when used~~ to  
422 protect a person from falling out of bed.

423 ~~(21)(32)~~ "Intellectual disability" ~~"Retardation"~~ means  
424 significantly subaverage general intellectual functioning  
425 existing concurrently with deficits in adaptive behavior which  
426 ~~that~~ manifests before the age of 18 and can reasonably be  
427 expected to continue indefinitely. For the purposes of this  
428 definition, the term:

429 (a) "Adaptive behavior" means the effectiveness or degree  
430 with which an individual meets the standards of personal  
431 independence and social responsibility expected of his or her  
432 age, cultural group, and community.

433 (b) "Significantly subaverage general intellectual  
434 functioning," for the purpose of this definition, means  
435 performance that ~~which~~ is two or more standard deviations from  
436 the mean score on a standardized intelligence test specified in  
437 the rules of the agency. ~~"Adaptive behavior," for the purpose of~~  
438 ~~this definition, means the effectiveness or degree with which an~~  
439 ~~individual meets the standards of personal independence and~~  
440 ~~social responsibility expected of his or her age, cultural~~  
441 ~~group, and community.~~

442  
443 For purposes of the application of the criminal laws and  
444 procedural rules of this state to matters relating to pretrial,  
445 trial, sentencing, and any matters relating to the imposition  
446 and execution of the death penalty, the terms "intellectual  
447 disability" or "intellectually disabled" are interchangeable  
448 with and have the same meaning as the terms "mental retardation"



449 | or "retardation" and "mentally retarded" as defined in this  
 450 | section before July 1, 2013.

451 | Section 10. Subsection (1), paragraphs (c) and (d) of  
 452 | subsection (2), paragraphs (b) through (d) of subsection (3),  
 453 | paragraph (b) of subsection (4), paragraphs (b), (e), (f), and  
 454 | (g) of subsection (5), subsection (6), paragraph (d) of  
 455 | subsection (7), paragraph (b) of subsection (8), subsection  
 456 | (10), and paragraph (b) of subsection (12) of section 393.11,  
 457 | Florida Statutes, are amended to read:

458 | 393.11 Involuntary admission to residential services.—

459 | (1) JURISDICTION.—If ~~When~~ a person has an intellectual  
 460 | disability ~~is mentally retarded~~ and requires involuntary  
 461 | admission to residential services provided by the agency, the  
 462 | circuit court of the county in which the person resides has  
 463 | ~~shall have~~ jurisdiction to conduct a hearing and enter an order  
 464 | involuntarily admitting the person in order for ~~that~~ the person  
 465 | to ~~may~~ receive the care, treatment, habilitation, and  
 466 | rehabilitation that ~~which~~ the person needs. For the purpose of  
 467 | identifying intellectual disability ~~mental retardation~~,  
 468 | diagnostic capability shall be established by the agency. Except  
 469 | as otherwise specified, the proceedings under this section are  
 470 | ~~shall be~~ governed by the Florida Rules of Civil Procedure.

471 | (2) PETITION.—

472 | (c) The petition shall be verified and must ~~shall~~:

473 | 1. State the name, age, and present address of the  
 474 | commissioners and their relationship to the person who has an  
 475 | intellectual disability ~~with mental retardation~~ or autism;

476 | 2. State the name, age, county of residence, and present

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477 address of the person who has an intellectual disability ~~with~~  
478 ~~mental retardation~~ or autism;

479 3. Allege that the commission believes that the person  
480 needs involuntary residential services and specify the factual  
481 information on which the belief is based;

482 4. Allege that the person lacks sufficient capacity to  
483 give express and informed consent to a voluntary application for  
484 services and lacks the basic survival and self-care skills to  
485 provide for the person's well-being or is likely to physically  
486 injure others if allowed to remain at liberty; and

487 5. State which residential setting is the least  
488 restrictive and most appropriate alternative and specify the  
489 factual information on which the belief is based.

490 (d) The petition must ~~shall~~ be filed in the circuit court  
491 of the county in which the person who has the intellectual  
492 disability ~~with mental retardation~~ or autism resides.

493 (3) NOTICE.—

494 (b) If ~~Whenever~~ a motion or petition has been filed  
495 pursuant to s. 916.303 to dismiss criminal charges against a  
496 defendant who has an intellectual disability ~~with retardation~~ or  
497 autism, and a petition is filed to involuntarily admit the  
498 defendant to residential services under this section, the notice  
499 of the filing of the petition must ~~shall~~ also be given to the  
500 defendant's attorney, the state attorney of the circuit from  
501 which the defendant was committed, and the agency.

502 (c) The notice must ~~shall~~ state that a hearing shall be  
503 set to inquire into the need of the person who has an  
504 intellectual disability ~~with mental retardation~~ or autism for

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505 involuntary residential services. The notice must ~~shall~~ also  
506 state the date of the hearing on the petition.

507 (d) The notice must ~~shall~~ state that the individual who  
508 has an intellectual disability ~~with mental retardation~~ or autism  
509 has the right to be represented by counsel of his or her own  
510 choice and that, if the person cannot afford an attorney, the  
511 court shall appoint one.

512 (4) AGENCY PARTICIPATION.—

513 (b) Following examination, the agency shall file a written  
514 report with the court at least ~~not less than~~ 10 working days  
515 before the date of the hearing. The report must be served on the  
516 petitioner, the person who has the intellectual disability ~~with~~  
517 ~~mental retardation~~, and the person's attorney at the time the  
518 report is filed with the court.

519 (5) EXAMINING COMMITTEE.—

520 (b) The court shall appoint at least ~~no fewer than~~ three  
521 disinterested experts who have demonstrated to the court an  
522 expertise in the diagnosis, evaluation, and treatment of persons  
523 who have intellectual disabilities ~~with mental retardation~~. The  
524 committee must include at least one licensed and qualified  
525 physician, one licensed and qualified psychologist, and one  
526 qualified professional who, at ~~with~~ a minimum, has ~~of~~ a masters  
527 degree in social work, special education, or vocational  
528 rehabilitation counseling, to examine the person and to testify  
529 at the hearing on the involuntary admission to residential  
530 services.

531 (e) The committee shall prepare a written report for the  
532 court. The report must explicitly document the extent that the

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533 person meets the criteria for involuntary admission. The report,  
534 and expert testimony, must include, but not be limited to:

535 1. The degree of the person's intellectual disability  
536 ~~mental retardation~~ and whether, using diagnostic capabilities  
537 established by the agency, the person is eligible for agency  
538 services;

539 2. Whether, because of the person's degree of intellectual  
540 disability ~~mental retardation~~, the person:

541 a. Lacks sufficient capacity to give express and informed  
542 consent to a voluntary application for services pursuant to s.  
543 393.065;

544 b. Lacks basic survival and self-care skills to such a  
545 degree that close supervision and habilitation in a residential  
546 setting is necessary and if not provided would result in a real  
547 and present threat of substantial harm to the person's well-  
548 being; or

549 c. Is likely to physically injure others if allowed to  
550 remain at liberty.

551 3. The purpose to be served by residential care;

552 4. A recommendation on the type of residential placement  
553 which would be the most appropriate and least restrictive for  
554 the person; and

555 5. The appropriate care, habilitation, and treatment.

556 (f) The committee shall file the report with the court at  
557 least ~~not less than~~ 10 working days before the date of the  
558 hearing. The report must ~~shall~~ be served on the petitioner, the  
559 person who has the intellectual disability ~~with mental~~  
560 ~~retardation~~, the person's attorney at the time the report is

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561 filed with the court, and the agency.

562 (g) Members of the examining committee shall receive a  
563 reasonable fee to be determined by the court. The fees shall ~~are~~  
564 ~~to~~ be paid from the general revenue fund of the county in which  
565 the person who has the intellectual disability ~~with mental~~  
566 ~~retardation~~ resided when the petition was filed.

567 (6) COUNSEL; GUARDIAN AD LITEM.—

568 (a) The person who has the intellectual disability must  
569 ~~with mental retardation shall~~ be represented by counsel at all  
570 stages of the judicial proceeding. If ~~In the event~~ the person is  
571 indigent and cannot afford counsel, the court shall appoint a  
572 public defender at least ~~not less than~~ 20 working days before  
573 the scheduled hearing. The person's counsel shall have full  
574 access to the records of the service provider and the agency. In  
575 all cases, the attorney shall represent the rights and legal  
576 interests of the person ~~with mental retardation~~, regardless of  
577 who initiates ~~may initiate~~ the proceedings or pays ~~pay~~ the  
578 attorney's fee.

579 (b) If the attorney, during the course of his or her  
580 representation, reasonably believes that the person who has the  
581 intellectual disability ~~with mental retardation~~ cannot  
582 adequately act in his or her own interest, the attorney may seek  
583 the appointment of a guardian ad litem. A prior finding of  
584 incompetency is not required before a guardian ad litem is  
585 appointed pursuant to this section.

586 (7) HEARING.—

587 (d) The person who has the intellectual disability must  
588 ~~with mental retardation shall~~ be physically present throughout

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589 the entire proceeding. If the person's attorney believes that  
590 the person's presence at the hearing is not in his or her ~~the~~  
591 ~~person's~~ best interest, the person's presence may be waived once  
592 the court has seen the person and the hearing has commenced.

593 (8) ORDER.—

594 (b) An order of involuntary admission to residential  
595 services may not be entered unless the court finds that:

596 1. The person is intellectually disabled ~~mentally retarded~~  
597 or autistic;

598 2. Placement in a residential setting is the least  
599 restrictive and most appropriate alternative to meet the  
600 person's needs; and

601 3. Because of the person's degree of intellectual  
602 disability ~~mental retardation~~ or autism, the person:

603 a. Lacks sufficient capacity to give express and informed  
604 consent to a voluntary application for services pursuant to s.  
605 393.065 and lacks basic survival and self-care skills to such a  
606 degree that close supervision and habilitation in a residential  
607 setting is necessary and, if not provided, would result in a  
608 real and present threat of substantial harm to the person's  
609 well-being; or

610 b. Is likely to physically injure others if allowed to  
611 remain at liberty.

612 (10) COMPETENCY.—

613 (a) The issue of competency is ~~shall be~~ separate and  
614 distinct from a determination of the appropriateness of  
615 involuntary admission to residential services due to  
616 intellectual disability ~~for a condition of mental retardation~~.

617 (b) The issue of the competency of a person who has an  
 618 intellectual disability ~~with mental retardation~~ for purposes of  
 619 assigning guardianship shall be determined in a separate  
 620 proceeding according to the procedures and requirements of  
 621 chapter 744. The issue of the competency of a person who has an  
 622 intellectual disability ~~with mental retardation~~ or autism for  
 623 purposes of determining whether the person is competent to  
 624 proceed in a criminal trial shall be determined in accordance  
 625 with chapter 916.

626 (12) APPEAL.—

627 (b) The filing of an appeal by the person who has an  
 628 intellectual disability stays ~~with mental retardation shall stay~~  
 629 admission of the person into residential care. The stay remains  
 630 ~~shall remain~~ in effect during the pendency of all review  
 631 proceedings in Florida courts until a mandate issues.

632 Section 11. Subsection (18) of section 394.455, Florida  
 633 Statutes, is amended to read:

634 394.455 Definitions.—As used in this part, unless the  
 635 context clearly requires otherwise, the term:

636 (18) "Mental illness" means an impairment of the mental or  
 637 emotional processes that exercise conscious control of one's  
 638 actions or of the ability to perceive or understand reality,  
 639 which impairment substantially interferes with the ~~a~~ person's  
 640 ability to meet the ordinary demands of living, ~~regardless of~~  
 641 ~~etiology~~. For the purposes of this part, the term does not  
 642 include a ~~retardation or~~ developmental disability as defined in  
 643 chapter 393, intoxication, or conditions manifested only by  
 644 antisocial behavior or substance abuse impairment.

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645 Section 12. Subsections (3) through (13) of section  
646 400.960, Florida Statutes, are amended to read:

647 400.960 Definitions.—As used in this part, the term:

648 ~~(3) "Autism" has the same meaning as in s. 393.063.~~

649 ~~(4) "Cerebral palsy" has the same meaning as in s.~~  
650 ~~393.063.~~

651 (3)~~(5)~~ "Client" means any person determined by the Agency  
652 for Persons with Disabilities to be eligible for developmental  
653 services.

654 (4)~~(6)~~ "Developmentally disabled" ~~"developmental~~  
655 ~~disability"~~ has the same meaning as "developmental disability"  
656 as that term is defined in s. 393.063.

657 (5)~~(7)~~ "Direct service provider" means a person 18 years  
658 of age or older who has direct contact with individuals who have  
659 ~~with~~ developmental disabilities and who is unrelated to such the  
660 individuals ~~with developmental disabilities~~.

661 (6)~~(8)~~ "Intermediate care facility for the developmentally  
662 disabled" means a residential facility licensed and certified in  
663 accordance with state law, and certified by the Federal  
664 Government, pursuant to the Social Security Act, as a provider  
665 of Medicaid services to persons who have ~~with~~ developmental  
666 disabilities.

667 ~~(9) "Prader-Willi syndrome" has the same meaning as in s.~~  
668 ~~393.063.~~

669 (7)~~(10)~~~~(a)~~ "Restraint" means a physical device, method, or  
670 drug used to control behavior.

671 (a) A physical restraint is any manual method or physical  
672 or mechanical device, material, or equipment attached or



673 adjacent to the individual's body so that he or she cannot  
 674 easily remove the restraint and which restricts freedom of  
 675 movement or normal access to one's body.

676 (b) A drug used as a restraint is a medication used to  
 677 control the person's behavior or to restrict his or her freedom  
 678 of movement. Physically holding a person during a procedure to  
 679 forcibly administer psychotropic medication is a physical  
 680 restraint.

681 (c) Restraint does not include physical devices, such as  
 682 orthopedically prescribed appliances, surgical dressings and  
 683 bandages, supportive body bands, or other physical holding ~~when~~  
 684 necessary for routine physical examinations and tests; for  
 685 purposes of orthopedic, surgical, or other similar medical  
 686 treatment; ~~when used~~ to provide support for the achievement of  
 687 functional body position or proper balance; or ~~when used~~ to  
 688 protect a person from falling out of bed.

689 ~~(11) "Retardation" has the same meaning as in s. 393.063.~~

690 (8) ~~(12)~~ "Seclusion" means the physical segregation of a  
 691 person in any fashion or the involuntary isolation of a person  
 692 in a room or area from which the person is prevented from  
 693 leaving. The prevention may be by physical barrier or by a staff  
 694 member who is acting in a manner, or who is physically situated,  
 695 so as to prevent the person from leaving the room or area. For  
 696 purposes of this part, the term does not mean isolation due to a  
 697 person's medical condition or symptoms.

698 ~~(13) "Spina bifida" has the same meaning as in s. 393.063.~~

699 Section 13. Subsection (12) of section 408.032, Florida  
 700 Statutes, is amended to read:

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701 408.032 Definitions relating to Health Facility and  
702 Services Development Act.—As used in ss. 408.031-408.045, the  
703 term:

704 (12) "Intermediate care facility for the developmentally  
705 disabled" means a residential facility licensed under part VIII  
706 of chapter 400 ~~chapter 393 and certified by the Federal~~  
707 ~~Government pursuant to the Social Security Act as a provider of~~  
708 ~~Medicaid services to persons who are mentally retarded or who~~  
709 ~~have a related condition.~~

710 Section 14. Subsection (8) of section 409.908, Florida  
711 Statutes, is amended to read:

712 409.908 Reimbursement of Medicaid providers.—Subject to  
713 specific appropriations, the agency shall reimburse Medicaid  
714 providers, in accordance with state and federal law, according  
715 to methodologies set forth in the rules of the agency and in  
716 policy manuals and handbooks incorporated by reference therein.  
717 These methodologies may include fee schedules, reimbursement  
718 methods based on cost reporting, negotiated fees, competitive  
719 bidding pursuant to s. 287.057, and other mechanisms the agency  
720 considers efficient and effective for purchasing services or  
721 goods on behalf of recipients. If a provider is reimbursed based  
722 on cost reporting and submits a cost report late and that cost  
723 report would have been used to set a lower reimbursement rate  
724 for a rate semester, then the provider's rate for that semester  
725 shall be retroactively calculated using the new cost report, and  
726 full payment at the recalculated rate shall be effected  
727 retroactively. Medicare-granted extensions for filing cost  
728 reports, if applicable, shall also apply to Medicaid cost

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729 reports. Payment for Medicaid compensable services made on  
730 behalf of Medicaid eligible persons is subject to the  
731 availability of moneys and any limitations or directions  
732 provided for in the General Appropriations Act or chapter 216.  
733 Further, nothing in this section shall be construed to prevent  
734 or limit the agency from adjusting fees, reimbursement rates,  
735 lengths of stay, number of visits, or number of services, or  
736 making any other adjustments necessary to comply with the  
737 availability of moneys and any limitations or directions  
738 provided for in the General Appropriations Act, provided the  
739 adjustment is consistent with legislative intent.

740 (8) A provider of home-based or community-based services  
741 rendered pursuant to a federally approved waiver shall be  
742 reimbursed based on an established or negotiated rate for each  
743 service. These rates shall be established according to an  
744 analysis of the expenditure history and prospective budget  
745 developed by each contract provider participating in the waiver  
746 program, or under any other methodology adopted by the agency  
747 and approved by the Federal Government in accordance with the  
748 waiver. Privately owned and operated community-based residential  
749 facilities which meet agency requirements and which formerly  
750 received Medicaid reimbursement for the optional intermediate  
751 care facility for the intellectually disabled ~~mentally retarded~~  
752 service may participate in the developmental services waiver as  
753 part of a home-and-community-based continuum of care for  
754 Medicaid recipients who receive waiver services.

755 Section 15. Subsection (16) of section 413.20, Florida  
756 Statutes, is amended to read:

757 413.20 Definitions.—As used in this part, the term:  
 758 (16) "Person who has a significant disability" means an  
 759 individual who has a disability that is a severe physical or  
 760 mental impairment that seriously limits one or more functional  
 761 capacities, such as mobility, communication, self-care, self-  
 762 direction, interpersonal skills, work tolerance, or work skills,  
 763 in terms of an employment outcome; whose vocational  
 764 rehabilitation may be expected to require multiple vocational  
 765 rehabilitation services over an extended period of time; and who  
 766 has one or more physical or mental disabilities resulting from  
 767 amputation, arthritis, autism, blindness, burn injury, cancer,  
 768 cerebral palsy, cystic fibrosis, deafness, head injury, heart  
 769 disease, hemiplegia, hemophilia, respiratory or pulmonary  
 770 dysfunction, intellectual disability ~~mental retardation~~, mental  
 771 illness, multiple sclerosis, muscular dystrophy, musculoskeletal  
 772 disorder, neurological disorder, including stroke and epilepsy,  
 773 paraplegia, quadriplegia, or other spinal cord condition,  
 774 sickle-cell anemia, specific learning disability, end-stage  
 775 renal disease, or another disability or a combination of  
 776 disabilities that is determined, after an assessment for  
 777 determining eligibility and vocational rehabilitation needs, to  
 778 cause comparable substantial functional limitation.

779 Section 16. Paragraph (a) of subsection (6) of section  
 780 440.49, Florida Statutes, is amended to read:

781 440.49 Limitation of liability for subsequent injury  
 782 through Special Disability Trust Fund.—

783 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.—

784 (a) Reimbursement is not allowed under this section unless

785 | it is established that the employer knew of the preexisting  
 786 | permanent physical impairment prior to the occurrence of the  
 787 | subsequent injury or occupational disease, and ~~that~~ the  
 788 | permanent physical impairment is one of the following:

- 789 |       1. Epilepsy.
- 790 |       2. Diabetes.
- 791 |       3. Cardiac disease.
- 792 |       4. Amputation of foot, leg, arm, or hand.
- 793 |       5. Total loss of sight of one or both eyes or a partial  
 794 | loss of corrected vision of more than 75 percent bilaterally.
- 795 |       6. Residual disability from poliomyelitis.
- 796 |       7. Cerebral palsy.
- 797 |       8. Multiple sclerosis.
- 798 |       9. Parkinson's disease.
- 799 |       10. Meniscectomy.
- 800 |       11. Patellectomy.
- 801 |       12. Ruptured cruciate ligament.
- 802 |       13. Hemophilia.
- 803 |       14. Chronic osteomyelitis.
- 804 |       15. Surgical or spontaneous fusion of a major weight-  
 805 | bearing joint.
- 806 |       16. Hyperinsulinism.
- 807 |       17. Muscular dystrophy.
- 808 |       18. Thrombophlebitis.
- 809 |       19. Herniated intervertebral disk.
- 810 |       20. Surgical removal of an intervertebral disk or spinal  
 811 | fusion.
- 812 |       21. One or more back injuries or a disease process of the

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813 back resulting in disability over a total of 120 or more days,  
814 if substantiated by a doctor's opinion that there was a  
815 preexisting impairment to the claimant's back.

816 22. Total deafness.

817 23. Intellectual disability if ~~Mental retardation,~~  
818 ~~provided~~ the employee's intelligence quotient is such that she  
819 or he falls within the lowest 2 percentile of the general  
820 population. However, ~~it shall not be necessary for~~ the employer  
821 does not need to know the employee's actual intelligence  
822 quotient or actual relative ranking in relation to the  
823 intelligence quotient of the general population.

824 24. Any permanent physical condition that ~~which~~, prior to  
825 the industrial accident or occupational disease, constitutes a  
826 20 percent ~~20-percent~~ impairment of a member or of the body as a  
827 whole.

828 25. Obesity if, ~~provided~~ the employee is 30 percent or  
829 more over the average weight designated for her or his height  
830 and age in the Table of Average Weight of Americans by Height  
831 and Age prepared by the Society of Actuaries using data from the  
832 1979 Build and Blood Pressure Study.

833 26. Any permanent physical impairment as provided ~~defined~~  
834 in s. 440.15(3) which is a result of a prior industrial accident  
835 with the same employer or the employer's parent company,  
836 subsidiary, sister company, or affiliate located within the  
837 geographical boundaries of this state.

838 Section 17. Paragraph (g) of subsection (1) of section  
839 499.0054, Florida Statutes, is amended to read:

840 499.0054 Advertising and labeling of drugs, devices, and

841 cosmetics; exemptions.—

842 (1) It is a violation of the Florida Drug and Cosmetic Act  
 843 to perform or cause the performance of any of the following  
 844 acts:

845 (g) The advertising of any drug or device represented to  
 846 have any effect in any of the following conditions, disorders,  
 847 diseases, or processes:

- 848 1. Blood disorders.
- 849 2. Bone or joint diseases.
- 850 3. Kidney diseases or disorders.
- 851 4. Cancer.
- 852 5. Diabetes.
- 853 6. Gall bladder diseases or disorders.
- 854 7. Heart and vascular diseases.
- 855 8. High blood pressure.
- 856 9. Diseases or disorders of the ear or auditory apparatus,  
 857 including hearing loss or deafness.
- 858 10. Mental disease or intellectual disability ~~mental~~  
 859 ~~retardation~~.
- 860 11. Paralysis.
- 861 12. Prostate gland disorders.
- 862 13. Conditions of the scalp affecting hair loss.
- 863 14. Baldness.
- 864 15. Endocrine disorders.
- 865 16. Sexual impotence.
- 866 17. Tumors.
- 867 18. Venereal diseases.
- 868 19. Varicose ulcers.

- 869 | 20. Breast enlargement.
- 870 | 21. Purifying blood.
- 871 | 22. Metabolic disorders.
- 872 | 23. Immune system disorders or conditions affecting the
- 873 | immune system.
- 874 | 24. Extension of life expectancy.
- 875 | 25. Stress and tension.
- 876 | 26. Brain stimulation or performance.
- 877 | 27. The body's natural defense mechanisms.
- 878 | 28. Blood flow.
- 879 | 29. Depression.
- 880 | 30. Human immunodeficiency virus or acquired immune
- 881 | deficiency syndrome or related disorders or conditions.

882 | Section 18. Section 514.072, Florida Statutes, is amended  
 883 | to read:

884 | 514.072 Certification of swimming instructors for people  
 885 | who have developmental disabilities ~~required~~.—Any person working  
 886 | at a swimming pool who holds himself or herself out as a  
 887 | swimming instructor specializing in training people who have  
 888 | developmental disabilities, as defined in s. 393.063(9), may be  
 889 | certified by the Dan Marino Foundation, Inc., in addition to  
 890 | being certified under s. 514.071. The Dan Marino Foundation,  
 891 | Inc., must develop certification requirements and a training  
 892 | curriculum for swimming instructors for people who have  
 893 | developmental disabilities ~~and must submit the certification~~  
 894 | ~~requirements to the Department of Health for review by January~~  
 895 | ~~1, 2007. A person certified under s. 514.071 before July 1,~~  
 896 | ~~2007, must meet the additional certification requirements of~~



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897 | ~~this section before January 1, 2008.~~ A person certified under s.  
 898 | 514.071 ~~on or after July 1, 2007,~~ must meet the additional  
 899 | certification requirements of this section within 6 months after  
 900 | receiving certification under s. 514.071.

901 | Section 19. Section 627.6041, Florida Statutes, is amended  
 902 | to read:

903 | 627.6041 ~~Handicapped~~ Children with disabilities;  
 904 | continuation of coverage.—

905 | (1) A hospital or medical expense insurance policy or  
 906 | health care services plan contract that is delivered or issued  
 907 | for delivery in this state and that provides that coverage of a  
 908 | dependent child terminates ~~will terminate~~ upon attainment of the  
 909 | limiting age for dependent children specified in the policy or  
 910 | contract must ~~shall~~ also provide in substance that attainment of  
 911 | the limiting age does not terminate the coverage of the child  
 912 | while the child continues to be both:

913 | (a) ~~(1)~~ Incapable of self-sustaining employment by reason  
 914 | of an intellectual ~~mental retardation~~ or physical disability.  
 915 | ~~handicap;~~ and

916 | (b) ~~(2)~~ Chiefly dependent upon the policyholder or  
 917 | subscriber for support and maintenance.

918 | (2) If a claim is denied under a policy or contract for  
 919 | the stated reason that the child has attained the limiting age  
 920 | for dependent children specified in the policy or contract, the  
 921 | notice of denial must state that the policyholder has the burden  
 922 | of establishing that the child continues to meet the criteria  
 923 | specified in subsection ~~subsections~~ (1) and ~~(2)~~.

924 | Section 20. Section 627.6615, Florida Statutes, is amended

925 to read:

926 627.6615 ~~Handicapped~~ Children with disabilities;

927 continuation of coverage under group policy.—

928 (1) A group health insurance policy or health care  
 929 services plan contract that is delivered or issued for delivery  
 930 in this state and that provides that coverage of a dependent  
 931 child of an employee or other member of the covered group  
 932 terminates ~~will terminate~~ upon attainment of the limiting age  
 933 for dependent children specified in the policy or contract must  
 934 ~~shall~~ also provide in substance that attainment of the limiting  
 935 age does not terminate the coverage of the child while the child  
 936 continues to be both:

937 (a) ~~(1)~~ Incapable of self-sustaining employment by reason  
 938 of an intellectual ~~mental retardation~~ or physical disability.  
 939 ~~handicap; and~~

940 (b) ~~(2)~~ Chiefly dependent upon the employee or member for  
 941 support and maintenance.

942 (2) If a claim is denied under a policy or contract for  
 943 the stated reason that the child has attained the limiting age  
 944 for dependent children specified in the policy or contract, the  
 945 notice of denial must state that the certificateholder or  
 946 subscriber has the burden of establishing that the child  
 947 continues to meet the criteria specified in subsection  
 948 ~~subsections (1) and (2)~~.

949 Section 21. Subsection (29) of section 641.31, Florida  
 950 Statutes, is amended to read:

951 641.31 Health maintenance contracts.—

952 (29) If a health maintenance contract provides that

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953 coverage of a dependent child of the subscriber terminates ~~will~~  
 954 ~~terminate~~ upon attainment of the limiting age for dependent  
 955 children which is specified in the contract, the contract must  
 956 also provide in substance that attainment of the limiting age  
 957 does not terminate the coverage of the child while the child  
 958 continues to be both:

959 (a) Incapable of self-sustaining employment by reason of  
 960 an intellectual ~~mental-retardation~~ or physical disability.  
 961 ~~handicap, and~~

962 (b) Chiefly dependent upon the employee or member for  
 963 support and maintenance.

964  
 965 If the claim is denied under a contract for the stated reason  
 966 that the child has attained the limiting age for dependent  
 967 children specified in the contract, the notice or denial must  
 968 state that the subscriber has the burden of establishing that  
 969 the child continues to meet the criteria specified in this  
 970 subsection ~~paragraphs (a) and (b)~~.

971 Section 22. Subsection (4) of section 650.05, Florida  
 972 Statutes, is amended to read:

973 650.05 Plans for coverage of employees of political  
 974 subdivisions.—

975 (4) ~~(a)~~ Notwithstanding any other provision of this  
 976 chapter, effective January 1, 1972, all state political  
 977 subdivisions receiving financial aid which ~~that~~ provide social  
 978 security coverage for their employees pursuant to ~~the provisions~~  
 979 ~~of~~ this chapter and the ~~provisions of the~~ various retirement  
 980 systems as authorized by law shall, in addition to other

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981 purposes, use ~~utilize~~ all grants-in-aid and other revenue  
 982 received from the state to pay the employer's share of social  
 983 security cost.

984 ~~(b)~~ The grants-in-aid and other revenue ~~referred to in~~  
 985 ~~paragraph (a)~~ specifically include, but are not limited to,  
 986 minimum foundation program grants to public school districts and  
 987 community colleges; gasoline, motor fuel, cigarette, racing, and  
 988 insurance premium taxes distributed to political subdivisions;  
 989 and amounts specifically appropriated as grants-in-aid for  
 990 mental health, intellectual disabilities ~~mental retardation~~, and  
 991 mosquito control programs.

992 Section 23. Subsection (1) of section 765.204, Florida  
 993 Statutes, is amended to read:

994 765.204 Capacity of principal; procedure.—

995 (1) A principal is presumed to be capable of making health  
 996 care decisions for herself or himself unless she or he is  
 997 determined to be incapacitated. Incapacity may not be inferred  
 998 from the person's voluntary or involuntary hospitalization for  
 999 mental illness or from her or his intellectual disability ~~mental~~  
 1000 ~~retardation~~.

1001 Section 24. Section 849.04, Florida Statutes, is amended  
 1002 to read:

1003 849.04 Permitting minors and persons under guardianship to  
 1004 gamble. ~~Whoever being~~ The proprietor, owner, or keeper of any E.  
 1005 O., keno or pool table, or billiard table, wheel of fortune, or  
 1006 other game of chance, ~~7~~ kept for the purpose of betting, who  
 1007 willfully and knowingly allows a ~~any~~ minor or ~~any~~ person who is  
 1008 mentally incompetent or under guardianship to play at such game

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1009 or to bet on such game of chance; or whoever aids or abets or  
 1010 otherwise encourages such playing or betting of any money or  
 1011 other valuable thing upon the result of such game of chance by a  
 1012 ~~any~~ minor or ~~any~~ person who is mentally incompetent or under  
 1013 guardianship, commits ~~shall be guilty of~~ a felony of the third  
 1014 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1015 775.084. For the purpose of this section, the term a "person who  
 1016 is mentally incompetent ~~person~~" means a person ~~is one~~ who  
 1017 because of mental illness, intellectual disability ~~mental~~  
 1018 ~~retardation~~, senility, excessive use of drugs or alcohol, or  
 1019 other mental incapacity is incapable of ~~either~~ managing his or  
 1020 her property or caring for himself or herself or both.

1021 Section 25. Section 914.16, Florida Statutes, is amended  
 1022 to read:

1023 914.16 Child abuse and sexual abuse of victims under age  
 1024 16 or who have an intellectual disability ~~persons with mental~~  
 1025 ~~retardation~~; limits on interviews.—The chief judge of each  
 1026 judicial circuit, after consultation with the state attorney and  
 1027 the public defender for the judicial circuit, the appropriate  
 1028 chief law enforcement officer, and any other person deemed  
 1029 appropriate by the chief judge, shall ~~provide by~~ order  
 1030 reasonable limits on the number of interviews which ~~that~~ a  
 1031 victim of a violation of s. 794.011, s. 800.04, s. 827.03, or s.  
 1032 847.0135(5) who is under 16 years of age or a victim of a  
 1033 violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102 who  
 1034 has an intellectual disability ~~is a person with mental~~  
 1035 ~~retardation~~ as defined in s. 393.063 must submit to for law  
 1036 enforcement or discovery purposes. ~~The order shall,~~ To the

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1037 | extent possible, the order must protect the victim from the  
 1038 | psychological damage of repeated interrogations while preserving  
 1039 | the rights of the public, the victim, and the person charged  
 1040 | with the violation.

1041 | Section 26. Section 914.17, Florida Statutes, is amended  
 1042 | to read:

1043 | 914.17 Appointment of advocate for victims or witnesses  
 1044 | who are minors or intellectually disabled ~~persons with mental~~  
 1045 | ~~retardation.~~-

1046 | (1) A guardian ad litem or other advocate shall be  
 1047 | appointed by the court to represent a minor in any criminal  
 1048 | proceeding if the minor is a victim of or witness to child abuse  
 1049 | or neglect, ~~or if the minor is~~ a victim of a sexual offense, or  
 1050 | a witness to a sexual offense committed against another minor.  
 1051 | The court may appoint a guardian ad litem or other advocate in  
 1052 | any other criminal proceeding in which a minor is involved as  
 1053 | ~~either~~ a victim or a witness. The guardian ad litem or other  
 1054 | advocate shall have full access to all evidence and reports  
 1055 | introduced during the proceedings, may interview witnesses, may  
 1056 | make recommendations to the court, shall be noticed and have the  
 1057 | right to appear on behalf of the minor at all proceedings, and  
 1058 | may request additional examinations by medical doctors,  
 1059 | psychiatrists, or psychologists. ~~It is the duty of~~ The guardian  
 1060 | ad litem or other advocate shall ~~to perform the following~~  
 1061 | ~~services:~~

1062 | (a) ~~To~~ Explain, in language understandable to the minor,  
 1063 | all legal proceedings in which the minor is ~~shall be~~ involved;

1064 | (b) ~~To~~ Act, as a friend of the court, to advise the judge,

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1065 whenever appropriate, of the minor's ability to understand and  
 1066 cooperate with any court proceeding; and

1067 (c) ~~To~~ Assist the minor and the minor's family in coping  
 1068 with the emotional effects of the crime and subsequent criminal  
 1069 proceedings in which the minor is involved.

1070 (2) An advocate shall be appointed by the court to  
 1071 represent a person who has an intellectual disability ~~with~~  
 1072 ~~mental retardation~~ as defined in s. 393.063 in any criminal  
 1073 proceeding if the person ~~with mental retardation~~ is a victim of  
 1074 or witness to abuse or neglect, ~~or if the person with mental~~  
 1075 ~~retardation is~~ a victim of a sexual offense, or a witness to a  
 1076 sexual offense committed against a minor or person who has an  
 1077 intellectual disability ~~with mental retardation~~. The court may  
 1078 appoint an advocate in any other criminal proceeding in which  
 1079 such a person ~~with mental retardation~~ is involved as ~~either~~ a  
 1080 victim or a witness. The advocate shall have full access to all  
 1081 evidence and reports introduced during the proceedings, may  
 1082 interview witnesses, may make recommendations to the court,  
 1083 shall be noticed and have the right to appear on behalf of the  
 1084 person ~~with mental retardation~~ at all proceedings, and may  
 1085 request additional examinations by medical doctors,  
 1086 psychiatrists, or psychologists. ~~It is the duty of~~ The advocate  
 1087 shall ~~to perform the following services:~~

1088 (a) ~~To~~ Explain, in language understandable to the person  
 1089 ~~with mental retardation~~, all legal proceedings in which the  
 1090 person is ~~shall be~~ involved;

1091 (b) ~~To~~ Act, as a friend of the court, to advise the judge,  
 1092 whenever appropriate, of the person's ~~person with mental~~

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1093 ~~retardation's~~ ability to understand and cooperate with any court  
 1094 proceedings; and

1095 (c) ~~To~~ Assist the person ~~with mental retardation~~ and the  
 1096 person's family in coping with the emotional effects of the  
 1097 crime and subsequent criminal proceedings in which the person  
 1098 ~~with mental retardation~~ is involved.

1099 (3) Any person participating in a judicial proceeding as a  
 1100 guardian ad litem or other advocate is ~~shall be~~ presumed prima  
 1101 facie to be acting in good faith and in so doing is ~~shall be~~  
 1102 immune from any liability, civil or criminal, which ~~that~~  
 1103 ~~otherwise~~ might be incurred or imposed.

1104 Section 27. Subsections (1), (2), and (3) of section  
 1105 916.105, Florida Statutes, are amended to read:

1106 916.105 Legislative intent.—

1107 (1) It is the intent of the Legislature that the  
 1108 Department of Children and Family Services and the Agency for  
 1109 Persons with Disabilities, as appropriate, establish, locate,  
 1110 and maintain separate and secure forensic facilities and  
 1111 programs for the treatment or training of defendants who have  
 1112 been charged with a felony and who have been found to be  
 1113 incompetent to proceed due to their mental illness, intellectual  
 1114 disability ~~mental retardation~~, or autism, or who have been  
 1115 acquitted of a felony by reason of insanity, and who, while  
 1116 still under the jurisdiction of the committing court, are  
 1117 committed to the department or agency under ~~the provisions of~~  
 1118 this chapter. Such facilities must ~~shall~~ be sufficient to  
 1119 accommodate the number of defendants committed under the  
 1120 conditions noted above. Except for those defendants found by the



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1121 department or agency to be appropriate for treatment or training  
 1122 in a civil facility or program pursuant to subsection (3),  
 1123 forensic facilities must ~~shall~~ be designed and administered so  
 1124 that ingress and egress, together with other requirements of  
 1125 this chapter, may be strictly controlled by staff responsible  
 1126 for security in order to protect the defendant, facility  
 1127 personnel, other clients, and citizens in adjacent communities.

1128 (2) It is the intent of the Legislature that treatment or  
 1129 training programs for defendants who are found to have mental  
 1130 illness, intellectual disability ~~mental retardation~~, or autism  
 1131 and are involuntarily committed to the department or agency, and  
 1132 who are still under the jurisdiction of the committing court, be  
 1133 provided in a manner, subject to security requirements and other  
 1134 mandates of this chapter, which ensures ~~as to ensure~~ the rights  
 1135 of the defendants as provided in this chapter.

1136 (3) It is the intent of the Legislature that evaluation  
 1137 and services to defendants who have mental illness, intellectual  
 1138 disability ~~mental retardation~~, or autism be provided in  
 1139 community settings, in community residential facilities, or in  
 1140 civil facilities, whenever this is a feasible alternative to  
 1141 treatment or training in a state forensic facility.

1142 Section 28. Subsections (1), (10), (11), (12), and (17) of  
 1143 section 916.106, Florida Statutes, are amended, and subsections  
 1144 (13) through (15) of that section are reordered and amended, to  
 1145 read:

1146 916.106 Definitions.—For the purposes of this chapter, the  
 1147 term:

1148 (1) "Agency" means the Agency for Persons with

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1149 Disabilities. The agency is responsible for training forensic  
1150 clients who are developmentally disabled due to intellectual  
1151 disability ~~mental-retardation~~ or autism and have been determined  
1152 incompetent to proceed.

1153 (10) "Forensic facility" means a separate and secure  
1154 facility established within the department or agency to serve  
1155 forensic clients. A separate and secure facility means a  
1156 security-grade building for the purpose of separately housing  
1157 persons who have mental illness from persons who have  
1158 intellectual disabilities ~~with-retardation~~ or autism and  
1159 separately housing persons who have been involuntarily committed  
1160 pursuant to this chapter from nonforensic residents.

1161 (11) "Incompetent to proceed" means unable to proceed at  
1162 any material stage of a criminal proceeding, which includes the  
1163 ~~shall include~~ trial of the case, pretrial hearings involving  
1164 questions of fact on which the defendant might be expected to  
1165 testify, entry of a plea, proceedings for violation of probation  
1166 or violation of community control, sentencing, and hearings on  
1167 issues regarding a defendant's failure to comply with court  
1168 orders or conditions or other matters in which the mental  
1169 competence of the defendant is necessary for a just resolution  
1170 of the issues being considered.

1171 (12) "Institutional security personnel" means the staff of  
1172 forensic facilities who meet or exceed the requirements of s.  
1173 943.13 and who are responsible for providing security,  
1174 protecting clients and personnel, enforcing rules, preventing  
1175 and investigating unauthorized activities, and safeguarding the  
1176 interests of residents ~~citizens~~ in the surrounding communities.

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1177        ~~(14)-(13)~~ "Mental illness" means an impairment of the  
1178 emotional processes that exercise conscious control of one's  
1179 actions, or of the ability to perceive or understand reality,  
1180 which impairment substantially interferes with the a defendant's  
1181 ability to meet the ordinary demands of living. For the purposes  
1182 of this chapter, the term does not apply to defendants who have  
1183 only an intellectual disability ~~with only mental retardation~~ or  
1184 autism and does not include intoxication or conditions  
1185 manifested only by antisocial behavior or substance abuse  
1186 impairment.

1187        ~~(15)-(14)~~ "Restraint" means a physical device, method, or  
1188 drug used to control dangerous behavior.

1189        (a) A physical restraint is any manual method or physical  
1190 or mechanical device, material, or equipment attached or  
1191 adjacent to a person's body so that he or she cannot easily  
1192 remove the restraint and that restricts freedom of movement or  
1193 normal access to one's body.

1194        (b) A drug used as a restraint is a medication used to  
1195 control the person's behavior or to restrict his or her freedom  
1196 of movement and not part of the standard treatment regimen of  
1197 the person with a diagnosed mental illness who is a client of  
1198 the department. Physically holding a person during a procedure  
1199 to forcibly administer psychotropic medication is a physical  
1200 restraint.

1201        (c) Restraint does not include physical devices, such as  
1202 orthopedically prescribed appliances, surgical dressings and  
1203 bandages, supportive body bands, or other physical holding ~~when~~  
1204 necessary for routine physical examinations and tests; for

1205 purposes of orthopedic, surgical, or other similar medical  
 1206 treatment; ~~when used~~ to provide support for the achievement of  
 1207 functional body position or proper balance; or ~~when used~~ to  
 1208 protect a person from falling out of bed.

1209 ~~(13)-(15)~~ "Intellectual disability" ~~"Retardation"~~ has the  
 1210 same meaning as in s. 393.063.

1211 (17) "Social service professional" means a person whose  
 1212 minimum qualifications include a bachelor's degree and at least  
 1213 2 years of social work, clinical practice, special education,  
 1214 habilitation, or equivalent experience working directly with  
 1215 persons who have intellectual disabilities ~~with retardation~~,  
 1216 autism, or other developmental disabilities.

1217 Section 29. Paragraph (a) of subsection (1) and paragraph  
 1218 (a) of subsection (3) of section 916.107, Florida Statutes, are  
 1219 amended to read:

1220 916.107 Rights of forensic clients.—

1221 (1) RIGHT TO INDIVIDUAL DIGNITY.—

1222 (a) The policy of the state is that the individual dignity  
 1223 of the client shall be respected at all times and upon all  
 1224 occasions, including any occasion when the forensic client is  
 1225 detained, transported, or treated. Clients with mental illness,  
 1226 intellectual disability ~~retardation~~, or autism and who are  
 1227 charged with committing felonies shall receive appropriate  
 1228 treatment or training. In a criminal case involving a client who  
 1229 has been adjudicated incompetent to proceed or not guilty by  
 1230 reason of insanity, a jail may be used as an emergency facility  
 1231 for up to 15 days following the date the department or agency  
 1232 receives a completed copy of the court commitment order

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1233 containing all documentation required by the applicable Florida  
1234 Rules of Criminal Procedure. For a forensic client who is held  
1235 in a jail awaiting admission to a facility of the department or  
1236 agency, evaluation and treatment or training may be provided in  
1237 the jail by the local community mental health provider for  
1238 mental health services, by the developmental disabilities  
1239 program for persons with intellectual disability ~~retardation~~ or  
1240 autism, the client's physician or psychologist, or any other  
1241 appropriate program until the client is transferred to a civil  
1242 or forensic facility.

1243 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

1244 (a) A forensic client shall be asked to give express and  
1245 informed written consent for treatment. If a client refuses such  
1246 treatment as is deemed necessary and essential by the client's  
1247 multidisciplinary treatment team for the appropriate care of the  
1248 client, such treatment may be provided under the following  
1249 circumstances:

1250 1. In an emergency situation in which there is immediate  
1251 danger to the safety of the client or others, such treatment may  
1252 be provided upon the written order of a physician for a period  
1253 not to exceed 48 hours, excluding weekends and legal holidays.  
1254 If, after the 48-hour period, the client has not given express  
1255 and informed consent to the treatment initially refused, the  
1256 administrator or designee of the civil or forensic facility  
1257 shall, within 48 hours, excluding weekends and legal holidays,  
1258 petition the committing court or the circuit court serving the  
1259 county in which the facility is located, at the option of the  
1260 facility administrator or designee, for an order authorizing the

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1261 continued treatment of the client. In the interim, the need for  
1262 treatment shall be reviewed every 48 hours and may be continued  
1263 without the consent of the client upon the continued written  
1264 order of a physician who has determined that the emergency  
1265 situation continues to present a danger to the safety of the  
1266 client or others.

1267 2. In a situation other than an emergency situation, the  
1268 administrator or designee of the facility shall petition the  
1269 court for an order authorizing necessary and essential treatment  
1270 for the client. The order shall allow such treatment for a  
1271 period not to exceed 90 days following the date of the entry of  
1272 the order. Unless the court is notified in writing that the  
1273 client has provided express and informed consent in writing or  
1274 that the client has been discharged by the committing court, the  
1275 administrator or designee shall, before ~~prior to~~ the expiration  
1276 of the initial 90-day order, petition the court for an order  
1277 authorizing the continuation of treatment for another 90-day  
1278 period. This procedure shall be repeated until the client  
1279 provides consent or is discharged by the committing court.

1280 3. At the hearing on the issue of whether the court should  
1281 enter an order authorizing treatment for which a client was  
1282 unable to or refused to give express and informed consent, the  
1283 court shall determine by clear and convincing evidence that the  
1284 client has mental illness, intellectual disability ~~retardation~~,  
1285 or autism, that the treatment not consented to is essential to  
1286 the care of the client, and that the treatment not consented to  
1287 is not experimental and does not present an unreasonable risk of  
1288 serious, hazardous, or irreversible side effects. In arriving at

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1289 the substitute judgment decision, the court must consider at  
1290 least the following factors:

- 1291 a. The client's expressed preference regarding treatment;  
1292 b. The probability of adverse side effects;  
1293 c. The prognosis without treatment; and  
1294 d. The prognosis with treatment.

1295

1296 The hearing shall be as convenient to the client as may be  
1297 consistent with orderly procedure and shall be conducted in  
1298 physical settings not likely to be injurious to the client's  
1299 condition. The court may appoint a general or special magistrate  
1300 to preside at the hearing. The client or the client's guardian,  
1301 and the representative, shall be provided with a copy of the  
1302 petition and the date, time, and location of the hearing. The  
1303 client has the right to have an attorney represent him or her at  
1304 the hearing, and, if the client is indigent, the court shall  
1305 appoint the office of the public defender to represent the  
1306 client at the hearing. The client may testify or not, as he or  
1307 she chooses, and has the right to cross-examine witnesses and  
1308 may present his or her own witnesses.

1309 Section 30. The Division of Law Revision and Information  
1310 is requested to rename part III of chapter 916, Florida  
1311 Statutes, consisting of ss. 916.301-916.304, as "Forensic  
1312 Services for Persons who are Intellectually Disabled or  
1313 Autistic."

1314 Section 31. Subsections (1) and (2) of section 916.301,  
1315 Florida Statutes, are amended to read:

1316 916.301 Appointment of experts.-

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1317 (1) All evaluations ordered by the court under this part  
1318 must be conducted by qualified experts who have expertise in  
1319 evaluating persons who have an intellectual disability ~~with~~  
1320 ~~retardation~~ or autism. The agency shall maintain and provide the  
1321 courts annually with a list of available ~~retardation and autism~~  
1322 professionals who are appropriately licensed and qualified to  
1323 perform evaluations of defendants alleged to be incompetent to  
1324 proceed due to intellectual disability ~~retardation~~ or autism.  
1325 The courts may use professionals from this list when appointing  
1326 experts and ordering evaluations under this part.

1327 (2) If a defendant's suspected mental condition is  
1328 intellectual disability ~~retardation~~ or autism, the court shall  
1329 appoint the following:

1330 (a) At least one, or at the request of any party, two  
1331 experts to evaluate whether the defendant meets the definition  
1332 of intellectual disability ~~retardation~~ or autism and, if so,  
1333 whether the defendant is competent to proceed; and

1334 (b) A psychologist selected by the agency who is licensed  
1335 or authorized by law to practice in this state, with experience  
1336 in evaluating persons suspected of having an intellectual  
1337 disability ~~retardation~~ or autism, and a social service  
1338 professional, with experience in working with persons who have  
1339 an intellectual disability ~~with retardation~~ or autism.

1340 1. The psychologist shall evaluate whether the defendant  
1341 meets the definition of intellectual disability ~~retardation~~ or  
1342 autism and, if so, whether the defendant is incompetent to  
1343 proceed due to intellectual disability ~~retardation~~ or autism.

1344 2. The social service professional shall provide a social



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1345 and developmental history of the defendant.

1346 Section 32. Subsections (1), (2), and (4) of section  
1347 916.3012, Florida Statutes, are amended to read:

1348 916.3012 Mental competence to proceed.—

1349 (1) A defendant whose suspected mental condition is  
1350 intellectual disability ~~retardation~~ or autism is incompetent to  
1351 proceed within the meaning of this chapter if the defendant does  
1352 not have sufficient present ability to consult with the  
1353 defendant's lawyer with a reasonable degree of rational  
1354 understanding or if the defendant has no rational, as well as  
1355 factual, understanding of the proceedings against the defendant.

1356 (2) Experts in intellectual disability ~~retardation~~ or  
1357 autism appointed pursuant to s. 916.301 shall first consider  
1358 whether the defendant meets the definition of intellectual  
1359 disability ~~retardation~~ or autism and, if so, consider the  
1360 factors related to the issue of whether the defendant meets the  
1361 criteria for competence to proceed as described in subsection  
1362 (1).

1363 (4) If the experts ~~should~~ find that the defendant is  
1364 incompetent to proceed, the experts shall report on any  
1365 recommended training for the defendant to attain competence to  
1366 proceed. In considering the issues relating to training, the  
1367 examining experts shall specifically report on:

1368 (a) The intellectual disability ~~retardation~~ or autism  
1369 causing the incompetence;

1370 (b) The training appropriate for the intellectual  
1371 disability ~~retardation~~ or autism of the defendant and an  
1372 explanation of each of the possible training alternatives in

1373 order of choices;

1374 (c) The availability of acceptable training and, if  
 1375 training is available in the community, the expert shall so  
 1376 state in the report; and

1377 (d) The likelihood of the defendant's attaining competence  
 1378 under the training recommended, an assessment of the probable  
 1379 duration of the training required to restore competence, and the  
 1380 probability that the defendant will attain competence to proceed  
 1381 in the foreseeable future.

1382 Section 33. Subsection (1), paragraphs (a) and (b) of  
 1383 subsection (2), and paragraph (a) of subsection (3) of section  
 1384 916.302, Florida Statutes, are amended to read:

1385 916.302 Involuntary commitment of defendant determined to  
 1386 be incompetent to proceed.—

1387 (1) CRITERIA.—Every defendant who is charged with a felony  
 1388 and who is adjudicated incompetent to proceed due to  
 1389 intellectual disability ~~retardation~~ or autism may be  
 1390 involuntarily committed for training upon a finding by the court  
 1391 of clear and convincing evidence that:

1392 (a) The defendant has an intellectual disability  
 1393 ~~retardation~~ or autism;

1394 (b) There is a substantial likelihood that in the near  
 1395 future the defendant will inflict serious bodily harm on himself  
 1396 or herself or another person, as evidenced by recent behavior  
 1397 causing, attempting, or threatening such harm;

1398 (c) All available, less restrictive alternatives,  
 1399 including services provided in community residential facilities  
 1400 or other community settings, which would offer an opportunity

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1401 for improvement of the condition have been judged to be  
 1402 inappropriate; and

1403 (d) There is a substantial probability that the  
 1404 intellectual disability ~~retardation~~ or autism causing the  
 1405 defendant's incompetence will respond to training and the  
 1406 defendant will regain competency to proceed in the reasonably  
 1407 foreseeable future.

1408 (2) ADMISSION TO A FACILITY.—

1409 (a) A defendant who has been charged with a felony and who  
 1410 is found to be incompetent to proceed due to intellectual  
 1411 disability ~~retardation~~ or autism, and who meets the criteria for  
 1412 involuntary commitment to the agency under ~~the provisions of~~  
 1413 this chapter, shall be committed to the agency, and the agency  
 1414 shall retain and provide appropriate training for the defendant.  
 1415 Within ~~No later than~~ 6 months after the date of admission or at  
 1416 the end of any period of extended commitment or at any time the  
 1417 administrator or designee determines ~~shall have determined~~ that  
 1418 the defendant has regained competency to proceed or no longer  
 1419 meets the criteria for continued commitment, the administrator  
 1420 or designee shall file a report with the court pursuant to this  
 1421 chapter and the applicable Florida Rules of Criminal Procedure.

1422 (b) A defendant determined to be incompetent to proceed  
 1423 due to intellectual disability ~~retardation~~ or autism may be  
 1424 ordered by a circuit court into a forensic facility designated  
 1425 by the agency for defendants who have an intellectual disability  
 1426 ~~mental retardation~~ or autism.

1427 (3) PLACEMENT OF DUALY DIAGNOSED DEFENDANTS.—

1428 (a) If a defendant has both an intellectual disability

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1429 | ~~mental retardation~~ or autism and ~~has~~ a mental illness,  
 1430 | evaluations must address which condition is primarily affecting  
 1431 | the defendant's competency to proceed. Referral of the defendant  
 1432 | should be made to a civil or forensic facility most appropriate  
 1433 | to address the symptoms that are the cause of the defendant's  
 1434 | incompetence.

1435 |       Section 34. Subsection (1) of section 916.3025, Florida  
 1436 | Statutes, is amended to read:

1437 |           916.3025 Jurisdiction of committing court.—

1438 |       (1) The committing court shall retain jurisdiction in the  
 1439 | case of any defendant found to be incompetent to proceed due to  
 1440 | intellectual disability ~~retardation~~ or autism and ordered into a  
 1441 | forensic facility designated by the agency for defendants who  
 1442 | have intellectual disabilities ~~mental retardation~~ or autism. A  
 1443 | defendant may not be released except by the order of the  
 1444 | committing court. An administrative hearing examiner does not  
 1445 | have jurisdiction to determine issues of continuing commitment  
 1446 | or release of any defendant involuntarily committed pursuant to  
 1447 | this chapter.

1448 |       Section 35. Section 916.303, Florida Statutes, is amended  
 1449 | to read:

1450 |           916.303 Determination of incompetency ~~due to retardation~~  
 1451 | ~~or autism~~; dismissal of charges.—

1452 |       (1) The charges against any defendant found to be  
 1453 | incompetent to proceed due to intellectual disability  
 1454 | ~~retardation~~ or autism shall be dismissed without prejudice to  
 1455 | the state if the defendant remains incompetent to proceed within  
 1456 | a reasonable time after such determination, not to exceed 2

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1457 | years, unless the court in its order specifies its reasons for  
1458 | believing that the defendant will become competent to proceed  
1459 | within the foreseeable future and specifies the time within  
1460 | which the defendant is expected to become competent to proceed.  
1461 | The charges may be refiled by the state if the defendant is  
1462 | declared competent to proceed in the future.

1463 |         (2) If the charges are dismissed and if the defendant is  
1464 | considered to lack sufficient capacity to give express and  
1465 | informed consent to a voluntary application for services and  
1466 | lacks the basic survival and self-care skills to provide for his  
1467 | or her well-being or is likely to physically injure himself or  
1468 | herself or others if allowed to remain at liberty, the agency,  
1469 | the state attorney, or the defendant's attorney shall apply to  
1470 | the committing court to involuntarily admit the defendant to  
1471 | residential services pursuant to s. 393.11.

1472 |         (3) If the defendant is considered to need involuntary  
1473 | residential services for reasons described in subsection (2)  
1474 | and, further, there is a substantial likelihood that the  
1475 | defendant will injure another person or continues to present a  
1476 | danger of escape, and all available less restrictive  
1477 | alternatives, including services in community residential  
1478 | facilities or other community settings, which would offer an  
1479 | opportunity for improvement of the condition have been judged to  
1480 | be inappropriate, the agency, the state attorney, or the  
1481 | defendant's counsel may request the committing court to continue  
1482 | the defendant's placement in a secure facility pursuant to this  
1483 | part. Any placement so continued ~~under this subsection~~ must be  
1484 | reviewed by the court at least annually at a hearing. The annual

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1485 review and hearing must ~~shall~~ determine whether the defendant  
1486 continues to meet the criteria described in this subsection and,  
1487 if so, whether the defendant still requires involuntary  
1488 placement in a secure facility and whether the defendant is  
1489 receiving adequate care, treatment, habilitation, and  
1490 rehabilitation, including psychotropic medication and behavioral  
1491 programming. Notice of the annual review and review hearing  
1492 shall be given to the state attorney and the defendant's  
1493 attorney. ~~In no instance may~~ A defendant's placement in a secure  
1494 facility may not exceed the maximum sentence for the crime for  
1495 which the defendant was charged.

1496 Section 36. Subsection (1) of section 916.304, Florida  
1497 Statutes, is amended to read:

1498 916.304 Conditional release.—

1499 (1) Except for an inmate currently serving a prison  
1500 sentence, the committing court may order a conditional release  
1501 of any defendant who has been found to be incompetent to proceed  
1502 due to intellectual disability ~~retardation~~ or autism, based on  
1503 an approved plan for providing community-based training. The  
1504 committing criminal court may order a conditional release of any  
1505 defendant to a civil facility in lieu of an involuntary  
1506 commitment to a forensic facility pursuant to s. 916.302. Upon a  
1507 recommendation that community-based training for the defendant  
1508 is appropriate, a written plan for community-based training,  
1509 including recommendations from qualified professionals, may be  
1510 filed with the court, with copies to all parties. Such a plan  
1511 may also be submitted by the defendant and filed with the court,  
1512 with copies to all parties. The plan must include:

1513 (a) Special provisions for residential care and adequate  
 1514 supervision of the defendant, including recommended location of  
 1515 placement.

1516 (b) Recommendations for auxiliary services such as  
 1517 vocational training, psychological training, educational  
 1518 services, leisure services, and special medical care.

1519  
 1520 In its order of conditional release, the court shall specify the  
 1521 conditions of release based upon the release plan and shall  
 1522 direct the appropriate agencies or persons to submit periodic  
 1523 reports to the courts regarding the defendant's compliance with  
 1524 the conditions of the release and progress in training, with  
 1525 copies to all parties.

1526 Section 37. Section 918.16, Florida Statutes, is amended  
 1527 to read:

1528 918.16 Sex offenses; testimony of person under age 16 or  
 1529 who has an intellectual disability ~~person with mental~~  
 1530 ~~retardation~~; testimony of victim; courtroom cleared;  
 1531 exceptions.—

1532 (1) Except as provided in subsection (2), in the trial of  
 1533 any case, civil or criminal, if ~~when~~ any person under the age of  
 1534 16 or any person with an intellectual disability ~~mental~~  
 1535 ~~retardation~~ as defined in s. 393.063 is testifying concerning  
 1536 any sex offense, the court shall clear the courtroom of all  
 1537 persons except parties to the cause and their immediate families  
 1538 or guardians, attorneys and their secretaries, officers of the  
 1539 court, jurors, newspaper reporters or broadcasters, court  
 1540 reporters, and, at the request of the victim, victim or witness

1541 advocates designated by the state attorney's office.

1542 (2) If ~~When~~ the victim of a sex offense is testifying  
 1543 concerning that offense in any civil or criminal trial, the  
 1544 court shall clear the courtroom of all persons upon the request  
 1545 of the victim, regardless of the victim's age or mental  
 1546 capacity, except that parties to the cause and their immediate  
 1547 families or guardians, attorneys and their secretaries, officers  
 1548 of the court, jurors, newspaper reporters or broadcasters, court  
 1549 reporters, and, at the request of the victim, victim or witness  
 1550 advocates designated by the state attorney may remain in the  
 1551 courtroom.

1552 Section 38. Section 921.137, Florida Statutes, is amended  
 1553 to read:

1554 921.137 Imposition of the death sentence upon an  
 1555 intellectually disabled a defendant ~~with mental retardation~~  
 1556 prohibited.-

1557 (1) As used in this section, the term "intellectually  
 1558 disabled" or "intellectual disability" ~~"mental retardation"~~  
 1559 means significantly subaverage general intellectual functioning  
 1560 existing concurrently with deficits in adaptive behavior and  
 1561 manifested during the period from conception to age 18. The term  
 1562 "significantly subaverage general intellectual functioning," for  
 1563 the purpose of this section, means performance that is two or  
 1564 more standard deviations from the mean score on a standardized  
 1565 intelligence test specified in the rules of the Agency for  
 1566 Persons with Disabilities. The term "adaptive behavior," for the  
 1567 purpose of this definition, means the effectiveness or degree  
 1568 with which an individual meets the standards of personal



1569 independence and social responsibility expected of his or her  
 1570 age, cultural group, and community. The Agency for Persons with  
 1571 Disabilities shall adopt rules to specify the standardized  
 1572 intelligence tests as provided in this subsection.

1573 (2) A sentence of death may not be imposed upon a  
 1574 defendant convicted of a capital felony if it is determined in  
 1575 accordance with this section that the defendant is  
 1576 intellectually disabled ~~has mental retardation~~.

1577 (3) A defendant charged with a capital felony who intends  
 1578 to raise intellectual disability ~~mental retardation~~ as a bar to  
 1579 the death sentence must give notice of such intention in  
 1580 accordance with the rules of court governing notices of intent  
 1581 to offer expert testimony regarding mental health mitigation  
 1582 during the penalty phase of a capital trial.

1583 (4) After a defendant who has given notice of his or her  
 1584 intention to raise intellectual disability ~~mental retardation~~ as  
 1585 a bar to the death sentence is convicted of a capital felony and  
 1586 an advisory jury has returned a recommended sentence of death,  
 1587 the defendant may file a motion to determine whether the  
 1588 defendant is intellectually disabled ~~has mental retardation~~.  
 1589 Upon receipt of the motion, the court shall appoint two experts  
 1590 in the field of intellectual disabilities ~~mental retardation~~ who  
 1591 shall evaluate the defendant and report their findings to the  
 1592 court and all interested parties prior to the final sentencing  
 1593 hearing. Notwithstanding s. 921.141 or s. 921.142, the final  
 1594 sentencing hearing shall be held without a jury. At the final  
 1595 sentencing hearing, the court shall consider the findings of the  
 1596 court-appointed experts and consider the findings of any other

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1597 expert which is offered by the state or the defense on the issue  
1598 of whether the defendant has an intellectual disability ~~mental~~  
1599 ~~retardation~~. If the court finds, by clear and convincing  
1600 evidence, that the defendant has an intellectual disability  
1601 ~~mental retardation~~ as defined in subsection (1), the court may  
1602 not impose a sentence of death and shall enter a written order  
1603 that sets forth with specificity the findings in support of the  
1604 determination.

1605 (5) If a defendant waives his or her right to a  
1606 recommended sentence by an advisory jury following a plea of  
1607 guilt or nolo contendere to a capital felony and adjudication of  
1608 guilt by the court, or following a jury finding of guilt of a  
1609 capital felony, upon acceptance of the waiver by the court, a  
1610 defendant who has given notice as required in subsection (3) may  
1611 file a motion for a determination of intellectual disability  
1612 ~~mental retardation~~. Upon granting the motion, the court shall  
1613 proceed as provided in subsection (4).

1614 (6) If, following a recommendation by an advisory jury  
1615 that the defendant be sentenced to life imprisonment, the state  
1616 intends to request the court to order that the defendant be  
1617 sentenced to death, the state must inform the defendant of such  
1618 request if the defendant has notified the court of his or her  
1619 intent to raise intellectual disability ~~mental retardation~~ as a  
1620 bar to the death sentence. After receipt of the notice from the  
1621 state, the defendant may file a motion requesting a  
1622 determination by the court of whether the defendant is  
1623 intellectually disabled ~~has mental retardation~~. Upon granting  
1624 the motion, the court shall proceed as provided in subsection

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1625 (4).

1626 (7) Pursuant to s. 924.07, the state may appeal, pursuant  
 1627 to ~~s. 924.07~~, a determination of intellectual disability ~~mental~~  
 1628 ~~retardation~~ made under subsection (4).

1629 (8) This section does not apply to a defendant who was  
 1630 sentenced to death before June 12, 2001 ~~prior to the effective~~  
 1631 ~~date of this act.~~

1632 (9) For purposes of the application of the criminal laws  
 1633 and procedural rules of this state to any matters relating to  
 1634 the imposition and execution of the death penalty, the terms  
 1635 "intellectual disability" or "intellectually disabled" are  
 1636 interchangeable with and have the same meaning as the terms  
 1637 "mental retardation" or "retardation" and "mentally retarded" as  
 1638 those terms were defined before July 1, 2013.

1639 Section 39. Paragraph (b) of subsection (2) of section  
 1640 941.38, Florida Statutes, is amended to read:

1641 941.38 Extradition of persons alleged to be of unsound  
 1642 mind.—

1643 (2) For the purpose of this section:

1644 (b) A "mentally incompetent person" is one who because of  
 1645 mental illness, intellectual disability ~~mental retardation~~,  
 1646 senility, excessive use of drugs or alcohol, or other mental  
 1647 incapacity is incapable of ~~either~~ managing his or her property  
 1648 or caring for himself or herself or both.

1649 Section 40. Section 944.602, Florida Statutes, is amended  
 1650 to read:

1651 944.602 Agency notification before release of  
 1652 intellectually disabled ~~mentally retarded~~ inmates.—Before the

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1653 release by parole, release by reason of gain-time allowances  
1654 provided for in s. 944.291, or expiration of sentence of any  
1655 inmate who has been diagnosed as having an intellectual  
1656 disability ~~mentally retarded~~ as defined in s. 393.063, the  
1657 Department of Corrections shall notify the Agency for Persons  
1658 with Disabilities in order that sufficient time be allowed to  
1659 notify the inmate or the inmate's representative, in writing, at  
1660 least 7 days before ~~prior to~~ the inmate's release, of available  
1661 community services.

1662 Section 41. Subsection (2) of section 945.025, Florida  
1663 Statutes, is amended to read:

1664 945.025 Jurisdiction of department.—

1665 (2) In establishing, operating, and using ~~utilizing~~ these  
1666 facilities, the department shall attempt, whenever possible, to  
1667 avoid the placement of nondangerous offenders who have potential  
1668 for rehabilitation with repeat offenders or dangerous offenders.  
1669 Medical, mental, and psychological problems must ~~shall~~ be  
1670 diagnosed and treated whenever possible. The Department of  
1671 Children and Family Services and the Agency for Persons with  
1672 Disabilities shall cooperate to ensure the delivery of services  
1673 to persons under the custody or supervision of the department.  
1674 ~~If when it is the intent of~~ the department intends to transfer a  
1675 ~~mentally ill or retarded~~ prisoner who has a mental illness or  
1676 intellectual disability to the Department of Children and Family  
1677 Services or the Agency for Persons with Disabilities, an  
1678 involuntary commitment hearing shall be held in accordance with  
1679 ~~according to the provisions of~~ chapter 393 or chapter 394.

1680 Section 42. Subsection (5) of section 945.12, Florida

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1681 Statutes, is amended to read:

1682 945.12 Transfers for rehabilitative treatment.—

1683 (5) When the department plans to release an offender who  
1684 is a mentally ill or intellectually disabled ~~retarded offender,~~  
1685 an involuntary commitment hearing shall be held as soon as  
1686 possible before ~~prior to~~ his or her release in accordance with,  
1687 ~~according to the provisions of~~ chapter 393 or chapter 394.

1688 Section 43. Subsection (9) of section 945.42, Florida  
1689 Statutes, is amended to read:

1690 945.42 Definitions; ss. 945.40-945.49.—As used in ss.  
1691 945.40-945.49, the following terms shall have the meanings  
1692 ascribed to them, unless the context shall clearly indicate  
1693 otherwise:

1694 (9) "Mentally ill" means an impairment of the mental or  
1695 emotional processes that, ~~of the ability to~~ exercise conscious  
1696 control of one's actions, ~~or of the ability to~~ perceive or  
1697 understand reality, which impairment substantially interferes  
1698 with the a person's ability to meet the ordinary demands of  
1699 living. However, ~~regardless of etiology, except that,~~ for the  
1700 purposes of transferring ~~transfer of~~ an inmate to a mental  
1701 health treatment facility, the term does not include a  
1702 ~~retardation or~~ developmental disability as defined in s. 393.063  
1703 ~~chapter 393,~~ simple intoxication, or conditions manifested only  
1704 by antisocial behavior or substance abuse addiction. However, an  
1705 individual who is ~~mentally retarded or~~ developmentally disabled  
1706 may also have a mental illness.

1707 Section 44. Section 947.185, Florida Statutes, is amended  
1708 to read:

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1709           947.185 Application for intellectual disability ~~mental~~  
 1710 ~~retardation~~ services as condition of parole.—The Parole  
 1711 Commission may require as a condition of parole that any inmate  
 1712 who has been diagnosed as having an intellectual disability  
 1713 ~~mentally retarded~~ as defined in s. 393.063 shall, upon release,  
 1714 apply for services from the Agency for Persons with  
 1715 Disabilities.

1716           Section 45. Subsection (4) of section 984.19, Florida  
 1717 Statutes, is amended to read:

1718           984.19 Medical screening and treatment of child;  
 1719 examination of parent, guardian, or person requesting custody.—

1720           (4) A judge may order that a child alleged to be or  
 1721 adjudicated a child in need of services be treated by a licensed  
 1722 health care professional. The judge may also order such child to  
 1723 receive mental health or intellectual disability ~~retardation~~  
 1724 services from a psychiatrist, psychologist, or other appropriate  
 1725 service provider. If it is necessary to place the child in a  
 1726 residential facility for such services, ~~then~~ the procedures and  
 1727 criteria established in s. 394.467 or chapter 393 shall be used,  
 1728 as whichever is applicable. A child may be provided ~~mental~~  
 1729 ~~health or retardation~~ services in emergency situations, pursuant  
 1730 to the procedures and criteria contained in s. 394.463(1) or  
 1731 chapter 393, as ~~whichever is~~ applicable.

1732           Section 46. Paragraph (a) of subsection (3) of section  
 1733 985.14, Florida Statutes, is amended to read:

1734           985.14 Intake and case management system.—

1735           (3) The intake and case management system shall facilitate  
 1736 consistency in the recommended placement of each child, and in

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1737 the assessment, classification, and placement process, with the  
 1738 following purposes:

1739 (a) An individualized, multidisciplinary assessment  
 1740 process that identifies the priority needs of each ~~individual~~  
 1741 child for rehabilitation and treatment and identifies any needs  
 1742 of the child's parents or guardians for services that would  
 1743 enhance their ability to provide adequate support, guidance, and  
 1744 supervision for the child. The ~~This~~ process begins ~~shall begin~~  
 1745 with the detention risk assessment instrument and decision,  
 1746 includes ~~shall include~~ the intake preliminary screening and  
 1747 comprehensive assessment for substance abuse treatment services,  
 1748 mental health services, intellectual disability ~~retardation~~  
 1749 services, literacy services, and other educational and treatment  
 1750 services as components, additional assessment of the child's  
 1751 treatment needs, and classification regarding the child's risks  
 1752 to the community. The completed multidisciplinary assessment  
 1753 process must ~~shall~~ result in the predisposition report.

1754 Section 47. Paragraph (g) of subsection (1) and subsection  
 1755 (5) of section 985.145, Florida Statutes, are amended to read:

1756 985.145 Responsibilities of juvenile probation officer  
 1757 during intake; screenings and assessments.-

1758 (1) The juvenile probation officer shall serve as the  
 1759 primary case manager for the purpose of managing, coordinating,  
 1760 and monitoring the services provided to the child. Each program  
 1761 administrator within the Department of Children and Family  
 1762 Services shall cooperate with the primary case manager in  
 1763 carrying out the duties and responsibilities described in this  
 1764 section. In addition to duties specified in other sections and

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1765 through departmental rules, the assigned juvenile probation  
1766 officer shall be responsible for the following:

1767 (g) *Comprehensive assessment.*—The juvenile probation  
1768 officer, pursuant to uniform procedures established by the  
1769 department and upon determining that the report, affidavit, or  
1770 complaint is complete, shall:

1771 1. Perform the preliminary screening and make referrals  
1772 for a comprehensive assessment regarding the child's need for  
1773 substance abuse treatment services, mental health services,  
1774 intellectual disability ~~retardation~~ services, literacy services,  
1775 or other educational or treatment services.

1776 2. If ~~When~~ indicated by the preliminary screening, provide  
1777 for a comprehensive assessment of the child and family for  
1778 substance abuse problems, using community-based licensed  
1779 programs with clinical expertise and experience in the  
1780 assessment of substance abuse problems.

1781 3. If ~~When~~ indicated by the preliminary screening, provide  
1782 for a comprehensive assessment of the child and family for  
1783 mental health problems, using community-based psychologists,  
1784 psychiatrists, or other licensed mental health professionals who  
1785 have clinical expertise and experience in the assessment of  
1786 mental health problems.

1787 (5) If the screening and assessment indicate that the  
1788 interests of the child and the public will be best served  
1789 ~~thereby~~, the juvenile probation officer, with the approval of  
1790 the state attorney, may refer the child for care, diagnostic,  
1791 and evaluation services; substance abuse treatment services;  
1792 mental health services; intellectual disability ~~retardation~~



1793 services; a diversionary, arbitration, or mediation program;  
 1794 community service work; or other programs or treatment services  
 1795 voluntarily accepted by the child and the child's parents or  
 1796 legal guardian. If ~~Whenever~~ a child volunteers to participate in  
 1797 any work program under this chapter or volunteers to work in a  
 1798 specified state, county, municipal, or community service  
 1799 organization supervised work program or to work for the victim,  
 1800 the child is ~~shall be~~ considered an employee of the state for  
 1801 the purposes of liability. In determining the child's average  
 1802 weekly wage, unless otherwise determined by a specific funding  
 1803 program, all remuneration received from the employer is  
 1804 considered a gratuity, and the child is not entitled to any  
 1805 benefits otherwise payable under s. 440.15, regardless of  
 1806 whether the child may be receiving wages and remuneration from  
 1807 other employment with another employer and regardless of the  
 1808 child's future wage-earning capacity.

1809 Section 48. Subsections (2) and (6) of section 985.18,  
 1810 Florida Statutes, are amended to read:

1811 985.18 Medical, psychiatric, psychological, substance  
 1812 abuse, and educational examination and treatment.—

1813 (2) If ~~Whenever~~ a child has been found to have committed a  
 1814 delinquent act, or before such finding with the consent of any  
 1815 parent or legal custodian of the child, the court may order the  
 1816 child to be treated by a physician. The court may also order the  
 1817 child to receive mental health, substance abuse, or intellectual  
 1818 disability ~~retardation~~ services from a psychiatrist,  
 1819 psychologist, or other appropriate service provider. If it is  
 1820 necessary to place the child in a residential facility for such

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1821 services, the procedures and criteria established in chapter  
 1822 393, chapter 394, or chapter 397, as ~~whichever is~~ applicable,  
 1823 must ~~shall~~ be used. After a child has been adjudicated  
 1824 delinquent, if an educational needs assessment by the district  
 1825 school board or the Department of Children and Family Services  
 1826 has been ~~previously~~ conducted, the court shall order the report  
 1827 ~~of such needs assessment~~ included in the child's court record in  
 1828 lieu of a new assessment. For purposes of this section, an  
 1829 educational needs assessment includes, but is not limited to,  
 1830 reports of intelligence and achievement tests, screening for  
 1831 learning and other disabilities ~~and other handicaps~~, and  
 1832 screening for the need for alternative education.

1833 (6) A physician must ~~shall~~ be immediately notified by the  
 1834 person taking the child into custody or the person having  
 1835 custody if there are indications of physical injury or illness,  
 1836 or the child shall be taken to the nearest available hospital  
 1837 for emergency care. A child may be provided mental health,  
 1838 substance abuse, or intellectual disability ~~retardation~~  
 1839 ~~services,~~ in emergency situations, pursuant to chapter 393,  
 1840 chapter 394, or chapter 397, as ~~whichever is~~ applicable. After a  
 1841 hearing, the court may order the custodial parent or parents,  
 1842 guardian, or other custodian, if found able to do so, to  
 1843 reimburse the county or state for the expense involved in such  
 1844 emergency treatment or care.

1845 Section 49. Paragraph (e) of subsection (1), subsections  
 1846 (2) through (4), and paragraph (a) of subsection (6) of section  
 1847 985.19, Florida Statutes, are amended to read:

1848 985.19 Incompetency in juvenile delinquency cases.—

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1849 (1) If, at any time prior to or during a delinquency case,  
1850 the court has reason to believe that the child named in the  
1851 petition may be incompetent to proceed with the hearing, the  
1852 court on its own motion may, or on the motion of the child's  
1853 attorney or state attorney must, stay all proceedings and order  
1854 an evaluation of the child's mental condition.

1855 (e) For incompetency evaluations related to intellectual  
1856 disability ~~mental-retardation~~ or autism, the court shall order  
1857 the Agency for Persons with Disabilities to examine the child to  
1858 determine if the child meets the definition of "intellectual  
1859 disability" ~~"retardation"~~ or "autism" in s. 393.063 and, if so,  
1860 whether the child is competent to proceed with delinquency  
1861 proceedings.

1862 (2) A child who is adjudicated incompetent to proceed, and  
1863 who has committed a delinquent act or violation of law, either  
1864 of which would be a felony if committed by an adult, must be  
1865 committed to the Department of Children and Family Services for  
1866 treatment or training. A child who has been adjudicated  
1867 incompetent to proceed because of age or immaturity, or for any  
1868 reason other than for mental illness, intellectual disability,  
1869 ~~or-retardation~~ or autism, must not be committed to the  
1870 department or to the Department of Children and Family Services  
1871 for restoration-of-competency treatment or training services.  
1872 For purposes of this section, a child who has committed a  
1873 delinquent act or violation of law, either of which would be a  
1874 misdemeanor if committed by an adult, may not be committed to  
1875 the department or to the Department of Children and Family  
1876 Services for restoration-of-competency treatment or training

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1877 services.

1878 (3) If the court finds that a child has mental illness,  
 1879 intellectual disability ~~mental retardation~~, or autism and  
 1880 adjudicates the child incompetent to proceed, the court must  
 1881 also determine whether the child meets the criteria for secure  
 1882 placement. A child may be placed in a secure facility or program  
 1883 if the court makes a finding by clear and convincing evidence  
 1884 that:

1885 (a) The child has mental illness, intellectual disability  
 1886 ~~mental retardation~~, or autism and because of the mental illness,  
 1887 intellectual disability ~~mental retardation~~, or autism:

1888 1. The child is manifestly incapable of surviving with the  
 1889 help of willing and responsible family or friends, including  
 1890 available alternative services, and without treatment or  
 1891 training the child is likely to ~~either~~ suffer from neglect or  
 1892 refuse to care for self, and such neglect or refusal poses a  
 1893 real and present threat of substantial harm to the child's well-  
 1894 being; or

1895 2. There is a substantial likelihood that in the near  
 1896 future the child will inflict serious bodily harm on self or  
 1897 others, as evidenced by recent behavior causing, attempting, or  
 1898 threatening such harm; and

1899 (b) All available less restrictive alternatives, including  
 1900 treatment or training in community residential facilities or  
 1901 community settings which would offer an opportunity for  
 1902 improvement of the child's condition, are inappropriate.

1903 (4) A child who is determined to have mental illness,  
 1904 intellectual disability ~~mental retardation~~, or autism, who has

1905 | been adjudicated incompetent to proceed, and who meets the  
 1906 | criteria set forth in subsection (3), must be committed to the  
 1907 | Department of Children and Family Services and receive treatment  
 1908 | or training in a secure facility or program that is the least  
 1909 | restrictive alternative consistent with public safety. Any  
 1910 | placement of a child to a secure residential program must be  
 1911 | separate from adult forensic programs. If the child attains  
 1912 | competency, ~~then~~ custody, case management, and supervision of  
 1913 | the child shall ~~will~~ be transferred to the department in order  
 1914 | to continue delinquency proceedings; however, the court retains  
 1915 | authority to order the Department of Children and Family  
 1916 | Services to provide continued treatment or training to maintain  
 1917 | competency.

1918 |         (a) A child adjudicated incompetent due to intellectual  
 1919 | disability ~~mental retardation~~ or autism may be ordered into a  
 1920 | secure program or facility designated by the Department of  
 1921 | Children and Family Services for children who have intellectual  
 1922 | disabilities ~~with mental retardation~~ or autism.

1923 |         (b) A child adjudicated incompetent due to mental illness  
 1924 | may be ordered into a secure program or facility designated by  
 1925 | the Department of Children and Family Services for children  
 1926 | having mental illnesses.

1927 |         (c) If ~~Whenever~~ a child is placed in a secure residential  
 1928 | facility, the department shall ~~will~~ provide transportation to  
 1929 | the secure residential facility for admission and from the  
 1930 | secure residential facility upon discharge.

1931 |         (d) The purpose of the treatment or training is the  
 1932 | restoration of the child's competency to proceed.

1933 (e) The service provider must file a written report with  
 1934 the court pursuant to the applicable Florida Rules of Juvenile  
 1935 Procedure within ~~not later than~~ 6 months after the date of  
 1936 commitment, or at the end of any period of extended treatment or  
 1937 training, and at any time the Department of Children and Family  
 1938 Services, through its service provider, determines the child has  
 1939 attained competency or no longer meets the criteria for secure  
 1940 placement, or at such shorter intervals as ordered by the court.  
 1941 A copy of a written report evaluating the child's competency  
 1942 must be filed by the provider with the court and with the state  
 1943 attorney, the child's attorney, the department, and the  
 1944 Department of Children and Family Services.

1945 (6) (a) If a child is determined to have mental illness,  
 1946 intellectual disability ~~mental retardation~~, or autism and is  
 1947 found to be incompetent to proceed but does not meet the  
 1948 criteria set forth in subsection (3), the court shall commit the  
 1949 child to the Department of Children and Family Services and  
 1950 ~~shall~~ order the Department of Children and Family Services to  
 1951 provide appropriate treatment and training in the community. The  
 1952 purpose of the treatment or training is the restoration of the  
 1953 child's competency to proceed.

1954 Section 50. Section 985.195, Florida Statutes, is amended  
 1955 to read:

1956 985.195 Transfer to other treatment services.—Any child  
 1957 committed to the department may be transferred to intellectual  
 1958 disability ~~retardation~~, mental health, or substance abuse  
 1959 treatment facilities for diagnosis and evaluation pursuant to  
 1960 chapter 393, chapter 394, or chapter 397, as ~~whichever is~~

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1961 applicable, for up to a period ~~not to exceed~~ 90 days.

1962 Section 51. Paragraph (b) of subsection (1) of section  
 1963 985.61, Florida Statutes, is amended to read:

1964 985.61 Early delinquency intervention program; criteria.—

1965 (1) The Department of Juvenile Justice shall, contingent  
 1966 upon specific appropriation and with the cooperation of local  
 1967 law enforcement agencies, the judiciary, district school board  
 1968 personnel, the office of the state attorney, the office of the  
 1969 public defender, the Department of Children and Family Services,  
 1970 and community service agencies that work with children,  
 1971 establish an early delinquency intervention program, the  
 1972 components of which shall include, but not be limited to:

1973 (b) Treatment modalities, including substance abuse  
 1974 treatment services, mental health services, and ~~retardation~~  
 1975 services for intellectual disabilities.

1976 Section 52. It is the intent of the Legislature that this  
 1977 act not expand or contract the scope or application of any  
 1978 provision of the Florida Statutes. This act may not be construed  
 1979 to change the application of any provision of Florida Statutes  
 1980 to any person.

1981 Section 53. This act shall take effect July 1, 2013.