



250728

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2015	.	
	.	
	.	
	.	

---

The Committee on Appropriations (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 293 - 2364

and insert:

Section 1. Paragraph (e) is added to subsection (10) of section 29.004, Florida Statutes, to read:

29.004 State courts system.—For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the state courts system to be provided from state revenues appropriated by general law are as follows:



250728

11 (10) Case management. Case management includes:  
12 (e) Service referral, coordination, monitoring, and  
13 tracking for treatment-based mental health court programs under  
14 s. 394.47892.

15  
16 Case management may not include costs associated with the  
17 application of therapeutic jurisprudence principles by the  
18 courts. Case management also may not include case intake and  
19 records management conducted by the clerk of court.

20 Section 2. Subsection (6) of section 39.001, Florida  
21 Statutes, is amended to read:

22 39.001 Purposes and intent; personnel standards and  
23 screening.—

24 (6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

25 (a) The Legislature recognizes that early referral and  
26 comprehensive treatment can help combat mental illnesses and  
27 substance abuse disorders in families and that treatment is  
28 cost-effective.

29 (b) The Legislature establishes the following goals for the  
30 state related to mental illness and substance abuse treatment  
31 services in the dependency process:

- 32 1. To ensure the safety of children.
- 33 2. To prevent and remediate the consequences of mental  
34 illnesses and substance abuse disorders on families involved in  
35 protective supervision or foster care and reduce the occurrences  
36 of mental illnesses and substance abuse disorders, including  
37 alcohol abuse or related disorders, for families who are at risk  
38 of being involved in protective supervision or foster care.
- 39 3. To expedite permanency for children and reunify healthy,



250728

40 intact families, when appropriate.

41 4. To support families in recovery.

42 (c) The Legislature finds that children in the care of the  
43 state's dependency system need appropriate health care services,  
44 that the impact of mental illnesses and substance abuse  
45 disorders on health indicates the need for health care services  
46 to include treatment for mental health and substance abuse  
47 disorders ~~services~~ to children and parents where appropriate,  
48 and that it is in the state's best interest that such children  
49 be provided the services they need to enable them to become and  
50 remain independent of state care. In order to provide these  
51 services, the state's dependency system must have the ability to  
52 identify and provide appropriate intervention and treatment for  
53 children with personal or family-related mental illness and  
54 substance abuse problems.

55 (d) It is the intent of the Legislature to encourage the  
56 use of the treatment-based mental health court program model  
57 established under s. 394.47892 and drug court program model  
58 established by s. 397.334 and authorize courts to assess  
59 children and persons who have custody or are requesting custody  
60 of children where good cause is shown to identify and address  
61 mental illnesses and substance abuse disorders ~~problems~~ as the  
62 court deems appropriate at every stage of the dependency  
63 process. Participation in treatment, including a treatment-based  
64 mental health court program or a treatment-based drug court  
65 program, may be required by the court following adjudication.  
66 Participation in assessment and treatment before ~~prior to~~  
67 adjudication is ~~shall be~~ voluntary, except as provided in s.  
68 39.407(16).



250728

69 (e) It is therefore the purpose of the Legislature to  
70 provide authority for the state to contract with mental health  
71 service providers and community substance abuse treatment  
72 providers for the development and operation of specialized  
73 support and overlay services for the dependency system, which  
74 will be fully implemented and used as resources permit.

75 (f) Participation in a treatment-based mental health court  
76 program or a ~~the~~ treatment-based drug court program does not  
77 divest any public or private agency of its responsibility for a  
78 child or adult, but is intended to enable these agencies to  
79 better meet their needs through shared responsibility and  
80 resources.

81 Section 3. Subsection (10) of section 39.507, Florida  
82 Statutes, is amended to read:

83 39.507 Adjudicatory hearings; orders of adjudication.—

84 (10) After an adjudication of dependency, or a finding of  
85 dependency where adjudication is withheld, the court may order a  
86 person who has custody or is requesting custody of the child to  
87 submit to a mental health or substance abuse disorder assessment  
88 or evaluation. The assessment or evaluation must be administered  
89 by a qualified professional, as defined in s. 397.311. The court  
90 may also require such person to participate in and comply with  
91 treatment and services identified as necessary, including, when  
92 appropriate and available, participation in and compliance with  
93 a treatment-based mental health court program established under  
94 s. 394.47892 or a treatment-based drug court program established  
95 under s. 397.334. In addition to supervision by the department,  
96 the court, including the treatment-based mental health court  
97 program or treatment-based drug court program, may oversee the



250728

98 progress and compliance with treatment by a person who has  
99 custody or is requesting custody of the child. The court may  
100 impose appropriate available sanctions for noncompliance upon a  
101 person who has custody or is requesting custody of the child or  
102 make a finding of noncompliance for consideration in determining  
103 whether an alternative placement of the child is in the child's  
104 best interests. Any order entered under this subsection may be  
105 made only upon good cause shown. This subsection does not  
106 authorize placement of a child with a person seeking custody,  
107 other than the parent or legal custodian, who requires mental  
108 health or substance abuse disorder treatment.

109 Section 4. Paragraph (b) of subsection (1) of section  
110 39.521, Florida Statutes, is amended to read:

111 39.521 Disposition hearings; powers of disposition.—

112 (1) A disposition hearing shall be conducted by the court,  
113 if the court finds that the facts alleged in the petition for  
114 dependency were proven in the adjudicatory hearing, or if the  
115 parents or legal custodians have consented to the finding of  
116 dependency or admitted the allegations in the petition, have  
117 failed to appear for the arraignment hearing after proper  
118 notice, or have not been located despite a diligent search  
119 having been conducted.

120 (b) When any child is adjudicated by a court to be  
121 dependent, the court having jurisdiction of the child has the  
122 power by order to:

123 1. Require the parent and, when appropriate, the legal  
124 custodian and the child to participate in treatment and services  
125 identified as necessary. The court may require the person who  
126 has custody or who is requesting custody of the child to submit



250728

127 to a mental health or substance abuse disorder assessment or  
128 evaluation. The assessment or evaluation must be administered by  
129 a qualified professional, as defined in s. 397.311. The court  
130 may also require such person to participate in and comply with  
131 treatment and services identified as necessary, including, when  
132 appropriate and available, participation in and compliance with  
133 a treatment-based mental health court program established under  
134 s. 394.47892 or treatment-based drug court program established  
135 under s. 397.334. In addition to supervision by the department,  
136 the court, including the treatment-based mental health court  
137 program or treatment-based drug court program, may oversee the  
138 progress and compliance with treatment by a person who has  
139 custody or is requesting custody of the child. The court may  
140 impose appropriate available sanctions for noncompliance upon a  
141 person who has custody or is requesting custody of the child or  
142 make a finding of noncompliance for consideration in determining  
143 whether an alternative placement of the child is in the child's  
144 best interests. Any order entered under this subparagraph may be  
145 made only upon good cause shown. This subparagraph does not  
146 authorize placement of a child with a person seeking custody of  
147 the child, other than the child's parent or legal custodian, who  
148 requires mental health or substance abuse disorder treatment.

149       2. Require, if the court deems necessary, the parties to  
150 participate in dependency mediation.

151       3. Require placement of the child either under the  
152 protective supervision of an authorized agent of the department  
153 in the home of one or both of the child's parents or in the home  
154 of a relative of the child or another adult approved by the  
155 court, or in the custody of the department. Protective



250728

156 supervision continues until the court terminates it or until the  
157 child reaches the age of 18, whichever date is first. Protective  
158 supervision shall be terminated by the court whenever the court  
159 determines that permanency has been achieved for the child,  
160 whether with a parent, another relative, or a legal custodian,  
161 and that protective supervision is no longer needed. The  
162 termination of supervision may be with or without retaining  
163 jurisdiction, at the court's discretion, and shall in either  
164 case be considered a permanency option for the child. The order  
165 terminating supervision by the department shall set forth the  
166 powers of the custodian of the child and shall include the  
167 powers ordinarily granted to a guardian of the person of a minor  
168 unless otherwise specified. Upon the court's termination of  
169 supervision by the department, no further judicial reviews are  
170 required, so long as permanency has been established for the  
171 child.

172 Section 5. Subsection (2) and paragraph (a) of subsection  
173 (4) of section 381.0056, Florida Statutes, are amended to read:

174 381.0056 School health services program.-

175 (2) As used in this section, the term:

176 (a) "Emergency health needs" means onsite evaluation,  
177 management, and aid for illness or injury pending the student's  
178 return to the classroom or release to a parent, guardian,  
179 designated friend, law enforcement officer, or designated health  
180 care provider.

181 (b) "Entity" or "health care entity" means a unit of local  
182 government or a political subdivision of the state; a hospital  
183 licensed under chapter 395; a health maintenance organization  
184 certified under chapter 641; a health insurer authorized under



250728

185 the Florida Insurance Code; a community health center; a migrant  
186 health center; a federally qualified health center; an  
187 organization that meets the requirements for nonprofit status  
188 under s. 501(c) (3) of the Internal Revenue Code; a private  
189 industry or business; or a philanthropic foundation that agrees  
190 to participate in a public-private partnership with a county  
191 health department, local school district, or school in the  
192 delivery of school health services, and agrees to the terms and  
193 conditions for the delivery of such services as required by this  
194 section and as documented in the local school health services  
195 plan.

196 (c) "Invasive screening" means any screening procedure in  
197 which the skin or any body orifice is penetrated.

198 (d) "Physical examination" means a thorough evaluation of  
199 the health status of an individual.

200 (e) "School health services plan" means the document that  
201 describes the services to be provided, the responsibility for  
202 provision of the services, the anticipated expenditures to  
203 provide the services, and evidence of cooperative planning by  
204 local school districts and county health departments.

205 (f) "Screening" means presumptive identification of unknown  
206 or unrecognized diseases or defects by the application of tests  
207 that can be given with ease and rapidity to apparently healthy  
208 persons.

209 (4) (a) Each county health department shall develop, jointly  
210 with the district school board and the local school health  
211 advisory committee, a school health services plan. ~~and~~ The plan  
212 must include, at a minimum, provisions for all of the following:

213 1. Health appraisal;





250728

- 214           2. Records review;
- 215           3. Nurse assessment;
- 216           4. Nutrition assessment;
- 217           5. A preventive dental program;
- 218           6. Vision screening;
- 219           7. Hearing screening;
- 220           8. Scoliosis screening;
- 221           9. Growth and development screening;
- 222           10. Health counseling;
- 223           11. Referral and followup of suspected or confirmed health  
224 problems by the local county health department;
- 225           12. Meeting emergency health needs in each school;
- 226           13. County health department personnel to assist school  
227 personnel in health education curriculum development;
- 228           14. Referral of students to appropriate health treatment,  
229 in cooperation with the private health community whenever  
230 possible;
- 231           15. Consultation with a student's parent or guardian  
232 regarding the need for health attention by the family physician,  
233 dentist, or other specialist when definitive diagnosis or  
234 treatment is indicated;
- 235           16. Maintenance of records on incidents of health problems,  
236 corrective measures taken, and such other information as may be  
237 needed to plan and evaluate health programs; except, however,  
238 that provisions in the plan for maintenance of health records of  
239 individual students must be in accordance with s. 1002.22;
- 240           17. Health information which will be provided by the school  
241 health nurses, when necessary, regarding the placement of  
242 students in exceptional student programs and the reevaluation at



250728

243 periodic intervals of students placed in such programs; and  
244 18. Notification to the local nonpublic schools of the  
245 school health services program and the opportunity for  
246 representatives of the local nonpublic schools to participate in  
247 the development of the cooperative health services plan.

248 19. Immediate notification to a student's parent, guardian,  
249 or caregiver if the student is removed from school, school  
250 transportation, or a school-sponsored activity and taken to a  
251 receiving facility for an involuntary examination pursuant to s.  
252 394.463, including any requirements established under ss.  
253 1002.20(3) and 1002.33(9), as applicable.

254 Section 6. Section 394.453, Florida Statutes, is amended to  
255 read:

256 394.453 Legislative intent.—It is the intent of the  
257 Legislature to authorize and direct the Department of Children  
258 and Families to evaluate, research, plan, and recommend to the  
259 Governor and the Legislature programs designed to reduce the  
260 occurrence, severity, duration, and disabling aspects of mental,  
261 emotional, and behavioral disorders and substance abuse  
262 impairment. It is the intent of the Legislature that treatment  
263 programs for such disorders shall include, but not be limited  
264 to, comprehensive health, social, educational, and  
265 rehabilitative services for individuals ~~to persons~~ requiring  
266 intensive short-term and continued treatment in order to  
267 encourage them to assume responsibility for their treatment and  
268 recovery. It is intended that such individuals ~~persons~~ be  
269 provided with emergency service and temporary detention for  
270 evaluation if ~~when~~ required; that they be admitted to treatment  
271 facilities if ~~on a voluntary basis when~~ extended or continuing



250728

272 care is needed and unavailable in the community; that  
273 involuntary placement be provided only if ~~when~~ expert evaluation  
274 determines that it is necessary; that any involuntary treatment  
275 or examination be accomplished in a setting that ~~which~~ is  
276 clinically appropriate and most likely to facilitate the  
277 individual's ~~person's~~ return to the community as soon as  
278 possible; and that ~~individual~~ dignity and human rights be  
279 guaranteed to all individuals ~~persons~~ who are admitted to mental  
280 health and substance abuse treatment facilities or who are being  
281 held under s. 394.463. It is the further intent of the  
282 Legislature that the least restrictive means of intervention be  
283 employed based on the individual's ~~individual~~ needs ~~of each~~  
284 ~~person,~~ within the scope of available services. It is the policy  
285 of this state that the use of restraint and seclusion ~~on clients~~  
286 is justified only as an emergency safety measure to be used in  
287 response to imminent danger to the individual ~~client~~ or others.  
288 It is, therefore, the intent of the Legislature to achieve an  
289 ongoing reduction in the use of restraint and seclusion in  
290 programs and facilities serving individuals ~~persons~~ with mental  
291 illness or with a substance abuse impairment.

292 Section 7. Effective July 1, 2016, section 394.455, Florida  
293 Statutes, is reordered and amended to read:

294 394.455 Definitions.—As used in this part, unless the  
295 context clearly requires otherwise, the term:

296 (1) "Addictions receiving facility" means a secure, acute  
297 care facility that, at a minimum, provides detoxification and  
298 stabilization services; is operated 24 hours per day, 7 days a  
299 week; and is designated by the department to serve individuals  
300 found to have substance abuse impairment as defined in



250728

301 subsection (44) who qualify for services under this section.

302 (2)-(1) "Administrator" means the chief administrative  
303 officer of a receiving or treatment facility or his or her  
304 designee.

305 (3) "Adult" means an individual who is 18 years of age or  
306 older, or who has had the disability of nonage removed pursuant  
307 to s. 743.01 or s. 743.015.

308 (4) "Advanced registered nurse practitioner" means any  
309 person licensed in this state to practice professional nursing  
310 who is certified in advanced or specialized nursing practice  
311 under s. 464.012.

312 (36)-(2) "Clinical Psychologist" means a psychologist as  
313 defined in s. 490.003(7) with 3 years of postdoctoral experience  
314 in the practice of clinical psychology, inclusive of the  
315 experience required for licensure, or a psychologist employed by  
316 a facility operated by the United States Department of Veterans  
317 Affairs that qualifies as a receiving or treatment facility  
318 under this part.

319 (5)-(3) "Clinical record" means all parts of the record  
320 required to be maintained and includes all medical records,  
321 progress notes, charts, and admission and discharge data, and  
322 all other information recorded by a facility staff which  
323 pertains to an individual's the patient's hospitalization or  
324 treatment.

325 (6)-(4) "Clinical social worker" means a person licensed as  
326 a clinical social worker under s. 491.005 or s. 491.006 or a  
327 person employed as a clinical social worker by a facility  
328 operated by the United States Department of Veterans Affairs or  
329 the United States Department of Defense under chapter 491.



250728

330            (7)~~(5)~~ "Community facility" means a ~~any~~ community service  
331 provider contracting with the department to furnish substance  
332 abuse or mental health services under part IV of this chapter.

333            (8)~~(6)~~ "Community mental health center or clinic" means a  
334 publicly funded, not-for-profit center that ~~which~~ contracts with  
335 the department for the provision of inpatient, outpatient, day  
336 treatment, or emergency services.

337            (9)~~(7)~~ "Court," unless otherwise specified, means the  
338 circuit court.

339            (10)~~(8)~~ "Department" means the Department of Children and  
340 Families.

341            (11) "Detoxification facility" means a facility licensed to  
342 provide detoxification services under chapter 397.

343            (12) "Electronic means" means a form of telecommunication  
344 that requires all parties to maintain visual as well as audio  
345 communication.

346            (13)~~(9)~~ "Express and informed consent" means consent  
347 voluntarily given in writing, by a competent individual ~~person~~,  
348 after sufficient explanation and disclosure of the subject  
349 matter involved to enable the individual ~~person~~ to make a  
350 knowing and willful decision without any element of force,  
351 fraud, deceit, duress, or other form of constraint or coercion.

352            (14)~~(10)~~ "Facility" means any hospital, community facility,  
353 public or private facility, or receiving or treatment facility  
354 providing for the evaluation, diagnosis, care, treatment,  
355 training, or hospitalization of individuals ~~persons~~ who appear  
356 to have ~~a mental illness~~ or who have been diagnosed as having a  
357 mental illness or substance abuse impairment. The term  
358 "Facility" does not include a ~~any~~ program or entity licensed



250728

359 ~~under pursuant to~~ chapter 400 or chapter 429.

360 (15) "Governmental facility" means a facility owned,  
361 operated, or administered by the Department of Corrections or  
362 the United States Department of Veterans Affairs.

363 ~~(16)-(11)~~ "Guardian" means the natural guardian of a minor,  
364 or a person appointed by a court to act on behalf of a ward's  
365 person if the ward is a minor or has been adjudicated  
366 incapacitated.

367 ~~(17)-(12)~~ "Guardian advocate" means a person appointed by a  
368 court to make decisions regarding mental health or substance  
369 abuse treatment on behalf of an individual ~~a patient~~ who has  
370 been found incompetent to consent to treatment pursuant to this  
371 part. ~~The guardian advocate may be granted specific additional~~  
372 ~~powers by written order of the court, as provided in this part.~~

373 ~~(18)-(13)~~ "Hospital" means a hospital ~~facility as defined in~~  
374 ~~s. 395.002 and~~ licensed under chapter 395 and part II of chapter  
375 408.

376 ~~(19)-(14)~~ "Incapacitated" means that an individual ~~a person~~  
377 has been adjudicated incapacitated pursuant to part V of chapter  
378 744 and a guardian of the person has been appointed.

379 ~~(20)-(15)~~ "Incompetent to consent to treatment" means that  
380 an individual's ~~a person's~~ judgment is so affected by a his or  
381 ~~her~~ mental illness, a substance abuse impairment, or other  
382 medical or organic cause that he or she ~~the person~~ lacks the  
383 capacity to make a well-reasoned, willful, and knowing decision  
384 concerning his or her medical, ~~or~~ mental health, or substance  
385 abuse treatment.

386 (21) "Involuntary examination" means an examination  
387 performed under s. 394.463 to determine whether an individual



250728

388 qualifies for involuntary outpatient placement under s. 394.4655  
389 or involuntary inpatient placement under s. 394.467.

390 (22) "Involuntary placement" means involuntary outpatient  
391 placement under s. 394.4655 or involuntary inpatient placement  
392 in a receiving or treatment facility under s. 394.467.

393 (23)~~(16)~~ "Law enforcement officer" means a law enforcement  
394 officer as defined in s. 943.10.

395 (24) "Marriage and family therapist" means a person  
396 licensed to practice marriage and family therapy under s.  
397 491.005 or s. 491.006 or a person employed as a marriage and  
398 family therapist by a facility operated by the United States  
399 Department of Veterans Affairs or the United States Department  
400 of Defense.

401 (25) "Mental health counselor" means a person licensed to  
402 practice mental health counseling under s. 491.005 or s. 491.006  
403 or a person employed as a mental health counselor by a facility  
404 operated by the United States Department of Veterans Affairs or  
405 the United States Department of Defense.

406 (26)~~(17)~~ "Mental health overlay program" means a mobile  
407 service that ~~which~~ provides an independent examination for  
408 voluntary admission ~~admissions~~ and a range of supplemental  
409 onsite services to an individual who has ~~persons with~~ a mental  
410 illness in a residential setting such as a nursing home,  
411 assisted living facility, adult family-care home, or  
412 nonresidential setting such as an adult day care center.  
413 Independent examinations provided ~~pursuant to this part~~ through  
414 a mental health overlay program must ~~only~~ be provided only under  
415 contract with the department ~~for this service~~ or must be  
416 attached to a public receiving facility that is also a community



250728

417 mental health center.

418 ~~(28)-(18)~~ "Mental illness" means an impairment of the mental  
419 or emotional processes that exercise conscious control of one's  
420 actions or of the ability to perceive or understand reality,  
421 which impairment substantially interferes with the individual's  
422 ~~person's~~ ability to meet the ordinary demands of living. For the  
423 purposes of this part, the term does not include a developmental  
424 disability as defined in chapter 393, intoxication, brain  
425 injury, dementia, or conditions manifested only by antisocial  
426 behavior or substance abuse impairment.

427 (29) "Minor" means an individual who is 17 years of age or  
428 younger and who has not had the disabilities of nonage removed  
429 pursuant to s. 743.01 or s. 743.015.

430 ~~(30)-(19)~~ "Mobile crisis response service" means a  
431 nonresidential crisis service ~~attached to a public receiving~~  
432 ~~facility and~~ available 24 hours a day, 7 days a week, through  
433 which provides immediate intensive assessments and  
434 interventions, including screening for admission into a mental  
435 health receiving facility, an addictions receiving facility, or  
436 a detoxification facility, ~~take place~~ for the purpose of  
437 identifying appropriate treatment services.

438 ~~(20) "Patient" means any person who is held or accepted for~~  
439 ~~mental health treatment.~~

440 ~~(31)-(21)~~ "Physician" means a medical practitioner licensed  
441 under chapter 458 or chapter 459 ~~who has experience in the~~  
442 ~~diagnosis and treatment of mental and nervous disorders~~ or a  
443 physician employed by a facility operated by the United States  
444 Department of Veterans Affairs or the United States Department  
445 of Defense ~~which qualifies as a receiving or treatment facility~~





250728

446 ~~under this part.~~

447 (32) "Physician assistant" means a person licensed under  
448 chapter 458 or chapter 459 who has experience in the diagnosis  
449 and treatment of mental disorders or a person employed as a  
450 physician assistant by a facility operated by the United States  
451 Department of Veterans Affairs or the United States Department  
452 of Defense.

453 ~~(33)-(22)~~ "Private facility" means any hospital or facility  
454 operated by a for-profit or not-for-profit corporation or  
455 association that provides mental health or substance abuse  
456 services and is not a public facility.

457 ~~(34)-(23)~~ "Psychiatric nurse" means an advanced ~~a~~ registered  
458 nurse practitioner certified under s. 464.012 ~~licensed under~~  
459 ~~part I of chapter 464~~ who has a master's or doctoral degree ~~or a~~  
460 ~~doctorate~~ in psychiatric nursing, holds a national advanced  
461 practice certification as a psychiatric-mental health advanced  
462 practice nurse, and has 2 years of post-master's clinical  
463 experience under the supervision of a physician; or a person  
464 employed as a psychiatric nurse by a facility operated by the  
465 United States Department of Veterans Affairs or the United  
466 States Department of Defense.

467 ~~(35)-(24)~~ "Psychiatrist" means a medical practitioner  
468 licensed under chapter 458 or chapter 459 ~~who has primarily~~  
469 ~~diagnosed and treated mental and nervous disorders for at least~~  
470 ~~a period of not less than 3 years, inclusive of psychiatric~~  
471 residency, or a person employed as a psychiatrist by a facility  
472 operated by the United States Department of Veterans Affairs or  
473 the United States Department of Defense.

474 ~~(37)-(25)~~ "Public facility" means any facility that has



250728

475 contracted with the department to provide mental health or  
476 substance abuse services to all individuals ~~persons~~, regardless  
477 of their ability to pay, and is receiving state funds for such  
478 purpose.

479 ~~(27)-(26)~~ "Mental health receiving facility" means any  
480 public or private facility designated by the department to  
481 receive and hold individuals in involuntary status ~~involuntary~~  
482 ~~patients under emergency conditions~~ or for psychiatric  
483 evaluation and to provide ~~short-term~~ treatment. The term does  
484 not include a county jail.

485 ~~(38)-(27)~~ "Representative" means a person selected pursuant  
486 to s. 394.4597(2) ~~to receive notice of proceedings during the~~  
487 ~~time a patient is held in or admitted to a receiving or~~  
488 ~~treatment facility.~~

489 ~~(39)-(28)-(a)~~ "Restraint" means a physical device, method, or  
490 drug used to control behavior.

491 (a) A physical restraint is any manual method or physical  
492 or mechanical device, material, or equipment attached or  
493 adjacent to an ~~the~~ individual's body so that he or she cannot  
494 easily remove the restraint and which restricts freedom of  
495 movement or normal access to one's body.

496 (b) A drug used as a restraint is a medication used to  
497 control an individual's ~~the person's~~ behavior or to restrict his  
498 or her freedom of movement and is not part of the standard  
499 treatment regimen for an individual having ~~of a person with a~~  
500 diagnosed mental illness ~~who is a client of the department.~~  
501 Physically holding an individual ~~a person~~ during a procedure to  
502 forcibly administer psychotropic medication is a physical  
503 restraint.



250728

504 (c) Restraint does not include physical devices, such as  
505 orthopedically prescribed appliances, surgical dressings and  
506 bandages, supportive body bands, or other physical holding ~~when~~  
507 necessary for routine physical examinations and tests; ~~or~~ for  
508 purposes of orthopedic, surgical, or other similar medical  
509 treatment; ~~when used~~ to provide support for the achievement of  
510 functional body position or proper balance; or ~~when used~~ to  
511 protect an individual ~~a person~~ from falling out of bed.

512 (40) "School psychologist" has the same meaning as in s.  
513 490.003.

514 (41) ~~(29)~~ "Seclusion" means the physical segregation ~~of a~~  
515 ~~person in any fashion~~ or involuntary isolation of an individual  
516 ~~a person~~ in a room or area from which the individual person is  
517 prevented from leaving. The prevention may be by physical  
518 barrier or by a staff member who is acting in a manner, or who  
519 is physically situated, so as to prevent the individual person  
520 from leaving the room or area. For purposes of this chapter, the  
521 term does not mean isolation due to an individual's ~~a person's~~  
522 medical condition or symptoms.

523 (42) ~~(30)~~ "Secretary" means the Secretary of Children and  
524 Families.

525 (43) "Service provider" means a mental health receiving  
526 facility, any facility licensed under chapter 397, a treatment  
527 facility, an entity under contract with the department to  
528 provide mental health or substance abuse services, a community  
529 mental health center or clinic, a psychologist, a clinical  
530 social worker, a marriage and family therapist, a mental health  
531 counselor, a physician, a psychiatrist, an advanced registered  
532 nurse practitioner, or a psychiatric nurse.



250728

533           (44) "Substance abuse impairment" means a condition  
534 involving the use of alcoholic beverages or any psychoactive or  
535 mood-altering substance in such a manner as to induce mental,  
536 emotional, or physical problems and cause socially dysfunctional  
537 behavior.

538           (45) "Substance abuse qualified professional" has the same  
539 meaning as the term "qualified professional" in s. 397.311.

540           (46) ~~(31)~~ "Transfer evaluation" means the process, as  
541 approved by the ~~appropriate district office of the department,~~  
542 in which an individual ~~whereby a person who is being considered~~  
543 ~~for placement in a state treatment facility is first~~ evaluated  
544 for appropriateness of admission to a treatment ~~the~~ facility.  
545 The transfer evaluation shall be conducted by the department, by  
546 a ~~community-based~~ public receiving facility, ~~or~~ by another  
547 service provider as authorized by the department, or by a  
548 community mental health center or clinic ~~if the public receiving~~  
549 ~~facility is not a community mental health center or clinic.~~

550           (47) ~~(32)~~ "Treatment facility" means a any state-owned,  
551 state-operated, or state-supported hospital, center, or clinic  
552 designated by the department for extended treatment and  
553 hospitalization of individuals who have a mental illness, beyond  
554 that provided ~~for~~ by a receiving facility or a, ~~of persons who~~  
555 ~~have a mental illness, including facilities of the United States~~  
556 ~~Government, and any~~ private facility designated by the  
557 department when rendering such services ~~to a person~~ pursuant to  
558 ~~the provisions of~~ this part. Patients treated in facilities of  
559 the United States Government shall be solely those whose care is  
560 the responsibility of the United States Department of Veterans  
561 Affairs.



250728

562           ~~(33) "Service provider" means any public or private~~  
563 ~~receiving facility, an entity under contract with the Department~~  
564 ~~of Children and Families to provide mental health services, a~~  
565 ~~clinical psychologist, a clinical social worker, a marriage and~~  
566 ~~family therapist, a mental health counselor, a physician, a~~  
567 ~~psychiatric nurse as defined in subsection (23), or a community~~  
568 ~~mental health center or clinic as defined in this part.~~

569           ~~(34) "Involuntary examination" means an examination~~  
570 ~~performed under s. 394.463 to determine if an individual~~  
571 ~~qualifies for involuntary inpatient treatment under s.~~  
572 ~~394.467(1) or involuntary outpatient treatment under s.~~  
573 ~~394.4655(1).~~

574           ~~(35) "Involuntary placement" means either involuntary~~  
575 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~  
576 ~~inpatient treatment pursuant to s. 394.467.~~

577           ~~(36) "Marriage and family therapist" means a person~~  
578 ~~licensed as a marriage and family therapist under chapter 491.~~

579           ~~(37) "Mental health counselor" means a person licensed as a~~  
580 ~~mental health counselor under chapter 491.~~

581           ~~(38) "Electronic means" means a form of telecommunication~~  
582 ~~that requires all parties to maintain visual as well as audio~~  
583 ~~communication.~~

584           Section 8. Effective July 1, 2016, section 394.457, Florida  
585 Statutes, is amended to read:

586           394.457 Operation and administration.-

587           (1) ADMINISTRATION.—The Department of Children and Families  
588 is designated the "Mental Health Authority" of Florida. The  
589 department and the Agency for Health Care Administration shall  
590 exercise executive and administrative supervision over all



250728

591 ~~mental health~~ facilities, programs, and services.

592 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is  
593 responsible for:

594 (a) The planning, evaluation, and implementation of a  
595 complete and comprehensive statewide ~~program of~~ mental health  
596 and substance abuse program, including community services,  
597 receiving and treatment facilities, child services, research,  
598 and training as authorized and approved by the Legislature,  
599 based on the annual program budget of the department. The  
600 department is also responsible for the coordination of efforts  
601 with other ~~departments~~ and divisions of the state government,  
602 county and municipal governments, and private agencies concerned  
603 with and providing mental health and substance abuse services.  
604 It is responsible for establishing standards, providing  
605 technical assistance, and supervising ~~exercising supervision of~~  
606 mental health and substance abuse programs of, and the treatment  
607 of individuals ~~patients~~ at, community facilities, other  
608 facilities serving individuals ~~for persons~~ who have a mental  
609 illness or substance abuse impairment, and any agency or  
610 facility providing services under ~~to patients pursuant to~~ this  
611 part.

612 (b) The publication and distribution of an information  
613 handbook to facilitate understanding of this part, the policies  
614 and procedures involved in the implementation of this part, and  
615 the responsibilities of the various providers of services under  
616 this part. It shall stimulate research by public and private  
617 agencies, institutions of higher learning, and hospitals in the  
618 interest of the elimination and amelioration of mental illness.

619 (3) POWER TO CONTRACT.—The department may contract to



250728

620 provide, and be provided with, services and facilities in order  
621 to carry out its responsibilities under this part with the  
622 following agencies: public and private hospitals; receiving and  
623 treatment facilities; clinics; laboratories; departments,  
624 divisions, and other units of state government; the state  
625 colleges and universities; the community colleges; private  
626 colleges and universities; counties, municipalities, and any  
627 other governmental unit, including facilities of the United  
628 States Government; and any other public or private entity which  
629 provides or needs facilities or services. Baker Act funds for  
630 community inpatient, crisis stabilization, short-term  
631 residential treatment, and screening services must be allocated  
632 to each county pursuant to the department's funding allocation  
633 methodology. Notwithstanding s. 287.057(3)(e), contracts for  
634 community-based Baker Act services for inpatient, crisis  
635 stabilization, short-term residential treatment, and screening  
636 provided under this part, other than those with other units of  
637 government, to be provided for the department must be awarded  
638 using competitive sealed bids if the county commission of the  
639 county receiving the services makes a request to the  
640 department's district office by January 15 of the contracting  
641 year. The district may not enter into a competitively bid  
642 contract under this provision if such action will result in  
643 increases of state or local expenditures for Baker Act services  
644 within the district. Contracts for these Baker Act services  
645 using competitive sealed bids are effective for 3 years. The  
646 department shall adopt rules establishing minimum standards for  
647 such contracted services and facilities and shall make periodic  
648 audits and inspections to assure that the contracted services



250728

649 are provided and meet the standards of the department.

650 (4) APPLICATION FOR AND ACCEPTANCE OF GIFTS AND GRANTS.—The  
651 department may apply for and accept any funds, grants, gifts, or  
652 services made available to it by any agency or department of the  
653 Federal Government or any other public or private agency or  
654 person individual in aid of mental health and substance abuse  
655 programs. All such moneys must ~~shall~~ be deposited in the State  
656 Treasury and ~~shall be~~ disbursed as provided by law.

657 (5) RULES.—The department shall adopt rules:

658 (a) Establishing ~~The department shall adopt rules~~  
659 ~~establishing~~ forms and procedures relating to the rights and  
660 privileges of individuals being examined or treated at patients  
661 ~~seeking mental health treatment from~~ facilities under this part.

662 (b) ~~The department shall adopt rules~~ Necessary for the  
663 implementation and administration of ~~the provisions of this~~  
664 ~~part.~~, and A program subject to ~~the provisions of this part~~ may  
665 ~~shall not be permitted to~~ operate unless rules designed to  
666 ensure the protection of the health, safety, and welfare of the  
667 individuals examined and patients treated under through such  
668 program have been adopted. Such rules ~~adopted under this~~  
669 ~~subsection~~ must include provisions governing the use of  
670 restraint and seclusion which are consistent with recognized  
671 best practices and professional judgment; prohibit inherently  
672 dangerous restraint or seclusion procedures; establish  
673 limitations on the use and duration of restraint and seclusion;  
674 establish measures to ensure the safety of program participants  
675 and staff during an incident of restraint or seclusion;  
676 establish procedures for staff to follow before, during, and  
677 after incidents of restraint or seclusion; establish





250728

678 professional qualifications ~~of~~ and training for staff who may  
679 order or be engaged in the use of restraint or seclusion; and  
680 establish mandatory reporting, data collection, and data  
681 dissemination procedures and requirements. Such rules ~~adopted~~  
682 ~~under this subsection~~ must require that each instance of the use  
683 of restraint or seclusion be documented in the clinical record  
684 of the individual who has been restrained or secluded patient.

685 (c) Establishing ~~The department shall adopt rules~~  
686 ~~establishing~~ minimum standards for services provided by a mental  
687 health overlay program or a mobile crisis response service.

688 ~~(6) PERSONNEL.—~~

689 ~~(a) The department shall, by rule, establish minimum~~  
690 ~~standards of education and experience for professional and~~  
691 ~~technical personnel employed in mental health programs,~~  
692 ~~including members of a mobile crisis response service.~~

693 ~~(b) The department shall design and distribute appropriate~~  
694 ~~materials for the orientation and training of persons actively~~  
695 ~~engaged in implementing the provisions of this part relating to~~  
696 ~~the involuntary examination and placement of persons who are~~  
697 ~~believed to have a mental illness.~~

698 ~~(6)(7) PAYMENT FOR CARE OF PATIENTS.—~~Fees and fee  
699 collections for patients in state-owned, state-operated, or  
700 state-supported treatment facilities shall be according to s.  
701 402.33.

702 Section 9. Section 394.4573, Florida Statutes, is amended  
703 to read:

704 394.4573 Continuity of care management system; measures of  
705 performance; reports.—

706 (1) For the purposes of this section, the term:



250728

707 (a) "Case management" means those activities aimed at  
708 assessing ~~client~~ needs, planning services, linking the service  
709 system ~~to a client~~, coordinating the various system components,  
710 monitoring service delivery, and evaluating the effect of  
711 service delivery.

712 (b) "Case manager" means a person ~~an individual~~ who works  
713 with clients~~,~~ and their families and significant others~~,~~ to  
714 provide case management.

715 (c) "Client manager" means an employee of the department  
716 who is assigned to specific provider agencies and geographic  
717 areas to ensure that the full range of needed services is  
718 available to clients.

719 ~~(d) "Continuity of care management system" means a system~~  
720 ~~that assures, within available resources, that clients have~~  
721 ~~access to the full array of services within the mental health~~  
722 ~~services delivery system.~~

723 (2) The department shall ensure the establishment of is  
724 ~~directed to implement~~ a continuity of care management system for  
725 the provision of mental health and substance abuse care in  
726 compliance with s. 394.9082.~~, through the provision of client~~  
727 ~~and case management, including clients referred from state~~  
728 ~~treatment facilities to community mental health facilities. Such~~  
729 ~~system shall include a network of client managers and case~~  
730 ~~managers throughout the state designed to:~~

731 ~~(a) Reduce the possibility of a client's admission or~~  
732 ~~readmission to a state treatment facility.~~

733 ~~(b) Provide for the creation or designation of an agency in~~  
734 ~~each county to provide single intake services for each person~~  
735 ~~seeking mental health services. Such agency shall provide~~



250728

736 ~~information and referral services necessary to ensure that~~  
737 ~~clients receive the most appropriate and least restrictive form~~  
738 ~~of care, based on the individual needs of the person seeking~~  
739 ~~treatment. Such agency shall have a single telephone number,~~  
740 ~~operating 24 hours per day, 7 days per week, where practicable,~~  
741 ~~at a central location, where each client will have a central~~  
742 ~~record.~~

743 ~~(c) Advocate on behalf of the client to ensure that all~~  
744 ~~appropriate services are afforded to the client in a timely and~~  
745 ~~dignified manner.~~

746 ~~(d) Require that any public receiving facility initiating a~~  
747 ~~patient transfer to a licensed hospital for acute care mental~~  
748 ~~health services not accessible through the public receiving~~  
749 ~~facility shall notify the hospital of such transfer and send all~~  
750 ~~records relating to the emergency psychiatric or medical~~  
751 ~~condition.~~

752 ~~(3) The department is directed to develop and include in~~  
753 ~~contracts with service providers measures of performance with~~  
754 ~~regard to goals and objectives as specified in the state plan.~~  
755 ~~Such measures shall use, to the extent practical, existing data~~  
756 ~~collection methods and reports and shall not require, as a~~  
757 ~~result of this subsection, additional reports on the part of~~  
758 ~~service providers. The department shall plan monitoring visits~~  
759 ~~of community mental health facilities with other state, federal,~~  
760 ~~and local governmental and private agencies charged with~~  
761 ~~monitoring such facilities.~~

762 Section 10. Effective July 1, 2016, subsection (1), present  
763 subsections (2) through (6), and present subsection (8) of  
764 section 394.459, Florida Statutes, are amended, present



250728

765 subsections (2) through (11) of that section are redesignated as  
766 subsections (3) through (12), respectively, present subsection  
767 (12) of that section is redesignated as subsection (14), and new  
768 subsections (2) and (13) are added to that section, to read:

769       394.459 Rights of individuals receiving treatment and  
770 services patients.—

771       (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.—It is the policy of this  
772 state that the ~~individual~~ dignity of all individuals held for  
773 examination or admitted for mental health or substance abuse  
774 treatment ~~the patient shall~~ be respected at all times and upon  
775 all occasions, including ~~any occasion~~ when the individual  
776 ~~patient~~ is taken into custody, held, or transported. Procedures,  
777 facilities, vehicles, and restraining devices used ~~utilized~~ for  
778 criminals or those accused of a crime may ~~shall~~ not be used in  
779 connection with individuals ~~persons~~ who have a mental illness or  
780 substance abuse impairment, except for the protection of that  
781 individual ~~the patient~~ or others. An individual ~~Persons~~ who has  
782 ~~have~~ a mental illness but who has ~~are~~ not been charged with a  
783 criminal offense may ~~shall~~ not be detained or incarcerated in  
784 the jails of this state. An individual ~~A person~~ who is receiving  
785 treatment for mental illness or substance abuse ~~may~~ ~~shall~~ not be  
786 deprived of his or her ~~any~~ constitutional rights. However, if  
787 such individual ~~a person~~ is adjudicated incapacitated, his or  
788 her rights may be limited to the same extent that the rights of  
789 any incapacitated individual ~~person~~ are limited by law.

790       (2) PROTECTIVE CUSTODY WITHOUT CONSENT FOR SUBSTANCE ABUSE  
791 IMPAIRMENT.—An individual who has a substance abuse impairment  
792 but who has not been charged with a criminal offense may be  
793 placed in protective custody without his or her consent, subject



250728

794 to the limitations specified in this subsection. If it has been  
795 determined that a hospital, an addictions receiving facility, or  
796 a licensed detoxification facility is the most appropriate  
797 placement for the individual, law enforcement may implement  
798 protective custody measures as specified in this subsection.

799 (a) An individual meets the criteria for placement in  
800 protective custody if there is a good faith reason to believe  
801 that the individual is impaired by substance abuse, has lost the  
802 power of self-control with respect to substance use because of  
803 such impairment, and:

804 1. Has inflicted, or threatened or attempted to inflict, or  
805 unless admitted is likely to inflict, physical harm on himself  
806 or herself or another; or

807 2. Is in need of substance abuse services and, by reason of  
808 substance abuse impairment, is incapacitated and unable to make  
809 a rational decision with regard thereto. However, mere refusal  
810 to seek or obtain such services does not constitute evidence of  
811 lack of judgment with respect to his or her need for such  
812 services.

813 (b) If an individual who is in circumstances that justify  
814 protective custody as described in paragraph (a) fails or  
815 refuses to consent to assistance and a law enforcement officer  
816 has determined that a hospital, an addictions receiving  
817 facility, or a licensed detoxification facility is the most  
818 appropriate place for such individual, the officer may, after  
819 giving due consideration to the expressed wishes of the  
820 individual:

821 1. Take the individual to a hospital, an addictions  
822 receiving facility, or a licensed detoxification facility



250728

823 against the individual's will but without using unreasonable  
824 force; or

825 2. In the case of an adult, detain the individual for his  
826 or her own protection in any municipal or county jail or other  
827 appropriate detention facility.

828  
829 Detention under this paragraph is not to be considered an arrest  
830 for any purpose, and an entry or other record may not be made to  
831 indicate that the individual has been detained or charged with  
832 any crime. The officer in charge of the detention facility must  
833 notify the nearest appropriate licensed service provider within  
834 8 hours after detention that the individual has been detained.  
835 The detention facility must arrange, as necessary, for  
836 transportation of the individual to an appropriate licensed  
837 service provider with an available bed. Individuals detained  
838 under this paragraph must be assessed by an attending physician  
839 without unnecessary delay and within a 72-hour period to  
840 determine the need for further services.

841 (c) The nearest relative of a minor in protective custody  
842 must be notified by the law enforcement officer, as must the  
843 nearest relative of an adult, unless the adult requests that  
844 there be no notification.

845 (d) An individual who is in protective custody must be  
846 released by a qualified professional when any of the following  
847 circumstances occur:

848 1. The individual no longer meets the protective custody  
849 criteria set out in paragraph (a);

850 2. A 72-hour period has elapsed since the individual was  
851 taken into custody; or



250728

852 3. The individual has consented voluntarily to readmission  
853 at the facility of the licensed service provider.

854 (e) An individual may be detained in protective custody  
855 beyond the 72-hour period if a petitioner has initiated  
856 proceedings for involuntary assessment or treatment. The timely  
857 filing of the petition authorizes the service provider to retain  
858 physical custody of the individual pending further order of the  
859 court.

860 (3)~~(2)~~ RIGHT TO TREATMENT.—An individual held for  
861 examination or admitted for mental illness or substance abuse  
862 treatment:

863 (a) ~~May~~ A ~~person shall~~ not be denied treatment for mental  
864 illness or substance abuse impairment, and services ~~may shall~~  
865 not be delayed at a mental health receiving facility, addictions  
866 receiving facility, detoxification facility, or treatment  
867 facility because of inability to pay. However, every reasonable  
868 effort to collect appropriate reimbursement for the cost of  
869 providing mental health or substance abuse services from  
870 individuals to persons able to pay for services, including  
871 insurance or ~~third-party~~ payments by third-party payers, shall  
872 be made by facilities providing services under ~~pursuant to~~ this  
873 part.

874 (b) Shall be provided ~~It is further the policy of the state~~  
875 ~~that~~ the least restrictive appropriate available treatment,  
876 which must be utilized based on the individual's individual  
877 needs and best interests ~~of the patient~~ and consistent with the  
878 optimum improvement of the individual's patient's condition.

879 (c) Shall ~~Each person who remains at a receiving or~~  
880 ~~treatment facility for more than 12 hours shall~~ be given a



250728

881 physical examination by a health practitioner authorized by law  
882 to give such examinations, and a mental health or substance  
883 abuse evaluation, as appropriate, by a psychiatrist,  
884 psychologist, psychiatric nurse, or qualified substance abuse  
885 professional, within 24 hours after arrival at such facility if  
886 the individual has not been released or discharged pursuant to  
887 s. 394.463(2) (h) or s. 394.469. The physical examination and  
888 mental health evaluation must be documented in the clinical  
889 record. The physical and mental health examinations shall  
890 include efforts to identify indicators of substance abuse  
891 impairment, substance abuse intoxication, and substance abuse  
892 withdrawal.

893 (d) Shall ~~Every patient in a facility shall~~ be afforded the  
894 opportunity to participate in activities designed to enhance  
895 self-image and the beneficial effects of other treatments, as  
896 determined by the facility.

897 (e) Shall, not more than 5 days after admission to a  
898 facility, ~~each patient shall~~ have and receive an individualized  
899 treatment plan in writing, which the individual patient has had  
900 an opportunity to assist in preparing and to review before ~~prior~~  
901 ~~to its~~ implementation. The plan must ~~shall~~ include a space for  
902 the individual's patient's comments and signature.

903 (4) ~~(3)~~ RIGHT TO EXPRESS AND INFORMED ~~PATIENT~~ CONSENT.-

904 ~~(a)~~ 1. Each individual patient entering treatment shall be  
905 asked to give express and informed consent for admission or  
906 treatment.

907 (a) If the individual patient has been adjudicated  
908 incapacitated or found to be incompetent to consent to  
909 treatment, express and informed consent must ~~to treatment shall~~





250728

910 be sought from his or her ~~instead from the patient's~~ guardian,  
911 ~~or~~ guardian advocate, or health care surrogate or proxy. If the  
912 individual patient is a minor, express and informed consent for  
913 admission or treatment must be obtained ~~shall also be requested~~  
914 ~~from the patient's guardian. Express and informed consent for~~  
915 ~~admission or treatment of a patient under 18 years of age shall~~  
916 ~~be required~~ from the minor's patient's guardian, unless the  
917 minor is seeking outpatient crisis intervention services under  
918 s. 394.4784. ~~Express and informed consent for admission or~~  
919 ~~treatment given by a patient who is under 18 years of age shall~~  
920 ~~not be a condition of admission when the patient's guardian~~  
921 ~~gives express and informed consent for the patient's admission~~  
922 ~~pursuant to s. 394.463 or s. 394.467.~~

923 (b)2. Before giving express and informed consent, the  
924 following information shall be provided and explained in plain  
925 language to the individual and patient, ~~or to his or her~~ the  
926 patient's guardian if the individual patient is an adult 18  
927 ~~years of age or older~~ and has been adjudicated incapacitated, ~~or~~  
928 to his or her ~~the patient's~~ guardian advocate if the individual  
929 patient has been found to be incompetent to consent to  
930 treatment, to the health care surrogate or proxy, or to both the  
931 individual patient and the guardian if the individual patient is  
932 a minor: the reason for admission or treatment; the proposed  
933 treatment and ~~;~~ the purpose of such ~~the~~ treatment ~~to be~~  
934 ~~provided~~; the common risks, benefits, and side effects of the  
935 proposed treatment ~~thereof~~; the specific dosage range of ~~for the~~  
936 medication, if ~~when~~ applicable; alternative treatment  
937 modalities; the approximate length of care; the potential  
938 effects of stopping treatment; how treatment will be monitored;



250728

939 and that any consent given for treatment may be revoked orally  
940 or in writing before or during the treatment period by the  
941 individual receiving the treatment ~~patient~~ or by a person who is  
942 legally authorized to make health care decisions on the  
943 individual's behalf ~~of the patient~~.

944 ~~(b) In the case of medical procedures requiring the use of~~  
945 ~~a general anesthetic or electroconvulsive treatment, and prior~~  
946 ~~to performing the procedure, express and informed consent shall~~  
947 ~~be obtained from the patient if the patient is legally~~  
948 ~~competent, from the guardian of a minor patient, from the~~  
949 ~~guardian of a patient who has been adjudicated incapacitated, or~~  
950 ~~from the guardian advocate of the patient if the guardian~~  
951 ~~advocate has been given express court authority to consent to~~  
952 ~~medical procedures or electroconvulsive treatment as provided~~  
953 ~~under s. 394.4598.~~

954 (5)~~(4)~~ QUALITY OF TREATMENT.-

955 (a) Each individual ~~patient~~ shall receive services,  
956 ~~including, for a patient placed under s. 394.4655~~ shall receive,  
957 ~~those services that are included in the court order which are~~  
958 ~~suited to his or her needs, and which shall be administered~~  
959 ~~skillfully, safely, and humanely with full respect for the~~  
960 individual's ~~patient's~~ dignity and personal integrity. Each  
961 individual ~~patient~~ shall receive such medical, vocational,  
962 social, educational, substance abuse, and rehabilitative  
963 services as his or her condition requires in order to live  
964 successfully in the community. In order to achieve this goal,  
965 the department shall ~~is directed to~~ coordinate its mental health  
966 and substance abuse programs with all other programs of the  
967 department and other state agencies.



250728

968 (b) Facilities shall develop and maintain, in a form that  
969 is accessible to and readily understandable by individuals held  
970 for examination or admitted for mental health or substance abuse  
971 treatment patients and consistent with rules adopted by the  
972 department, ~~the following:~~

973 1. Criteria, procedures, and required staff training for  
974 the any use of close or elevated levels of supervision, ~~of~~  
975 restraint, seclusion, or isolation, ~~or of~~ emergency treatment  
976 orders, and ~~for the use of~~ bodily control and physical  
977 management techniques.

978 2. Procedures for documenting, monitoring, and requiring  
979 clinical review of all uses of the procedures described in  
980 subparagraph 1. and for documenting and requiring review of any  
981 incidents resulting in injury to individuals receiving services  
982 ~~patients~~.

983 3. A system for investigating, tracking, managing, and  
984 responding to complaints by individuals ~~persons~~ receiving  
985 services or persons ~~individuals~~ acting on their behalf.

986 (c) Facilities shall have written procedures for reporting  
987 events that place individuals receiving services at risk of  
988 harm. Such events must be reported to the managing entity in the  
989 facility's region and the department as soon as reasonably  
990 possible after discovery and include, but are not limited to:

991 1. The death, regardless of cause or manner, of an  
992 individual examined or treated at a facility that occurs while  
993 the individual is at the facility or that occurs within 72 hours  
994 after release, if the death is known to the facility  
995 administrator.

996 2. An injury sustained, or allegedly sustained, at a



250728

997 facility, by an individual examined or treated at the facility  
998 and caused by an accident, self-inflicted injury, assault, act  
999 of abuse, neglect, or suicide attempt, if the injury requires  
1000 medical treatment by a licensed health care practitioner in an  
1001 acute care medical facility.

1002 3. The unauthorized departure or absence of an individual  
1003 from a facility in which he or she has been held for involuntary  
1004 examination or involuntary placement.

1005 4. A disaster or crisis situation such as a tornado,  
1006 hurricane, kidnapping, riot, or hostage situation that  
1007 jeopardizes the health, safety, or welfare of individuals  
1008 examined or treated in a facility.

1009 5. An allegation of sexual battery upon an individual  
1010 examined or treated in a facility.

1011 (d)(e) A facility may not use seclusion or restraint for  
1012 punishment, to compensate for inadequate staffing, or for the  
1013 convenience of staff. Facilities shall ensure that all staff are  
1014 made aware of these restrictions ~~on the use of seclusion and~~  
1015 ~~restraint and shall make and maintain records that which~~  
1016 demonstrate that this information has been conveyed to each  
1017 individual staff member members.

1018 (6)(5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

1019 (a) Each individual ~~person receiving services~~ in a facility  
1020 providing mental health services under this part has the right  
1021 to communicate freely and privately with persons outside the  
1022 facility unless it is determined that such communication is  
1023 likely to be harmful to the individual ~~person~~ or others. Each  
1024 facility shall make available ~~as soon as reasonably possible to~~  
1025 ~~persons receiving services~~ a telephone that allows for free



250728

1026 local calls and access to a long-distance service to the  
1027 individual as soon as reasonably possible. A facility is not  
1028 required to pay the costs of the individual's ~~a patient's~~ long-  
1029 distance calls. The telephone must ~~shall~~ be readily accessible  
1030 ~~to the patient~~ and ~~shall be~~ placed so that the individual  
1031 ~~patient~~ may use it to communicate privately and confidentially.  
1032 The facility may establish reasonable rules for the use of the  
1033 ~~this~~ telephone which, ~~provided that the rules~~ do not interfere  
1034 with an individual's ~~a patient's~~ access to a telephone to report  
1035 abuse pursuant to paragraph (e).

1036 (b) Each individual ~~patient~~ admitted to a facility under  
1037 ~~the provisions of~~ this part shall be allowed to receive, send,  
1038 and mail sealed, unopened correspondence; and the individual's  
1039 ~~no patient's~~ incoming or outgoing correspondence may not ~~shall~~  
1040 be opened, delayed, held, or censored by the facility unless  
1041 there is reason to believe that it contains items or substances  
1042 that ~~which~~ may be harmful to the individual ~~patient~~ or others,  
1043 in which case the administrator may direct reasonable  
1044 examination of such mail and may regulate the disposition of  
1045 such items or substances.

1046 (c) Each facility shall allow ~~must permit~~ immediate access  
1047 to an individual ~~any patient~~, subject to the ~~patient's~~ right to  
1048 deny or withdraw consent at any time, ~~by the~~ individual, or by  
1049 the individual's ~~patient's~~ family members, guardian, guardian  
1050 advocate, health care surrogate or proxy, representative,  
1051 ~~Florida statewide or local advocacy council~~, or attorneys  
1052 ~~attorney~~, unless such access would be detrimental to the  
1053 individual ~~patient~~. If the ~~a patient's~~ right to communicate or  
1054 to receive visitors is restricted by the facility, written



250728

1055 notice of such restriction and the reasons for the restriction  
1056 shall be served on the individual and patient, the individual's  
1057 patient's attorney, and ~~the patient's~~ guardian, guardian  
1058 advocate, health care surrogate or proxy, or representative; and  
1059 such restriction, and the reasons for the restriction, must  
1060 ~~shall~~ be recorded in on the patient's clinical record ~~with the~~  
1061 ~~reasons therefor~~. The restriction must ~~of a patient's right to~~  
1062 ~~communicate or to receive visitors shall~~ be reviewed at least  
1063 every 7 days. The right to communicate or receive visitors may  
1064 ~~shall~~ not be restricted as a means of punishment. This ~~Nothing~~  
1065 ~~in this paragraph may not shall~~ be construed to limit the  
1066 provisions of paragraph (d).

1067 (d) Each facility shall establish reasonable rules, which  
1068 must be the least restrictive possible, governing visitors,  
1069 visiting hours, and the use of telephones by individuals  
1070 ~~patients in the least restrictive possible manner~~. An individual  
1071 has ~~Patients shall have~~ the right to contact and to receive  
1072 communication from his or her attorney ~~their attorneys~~ at any  
1073 reasonable time.

1074 (e) Each individual patient receiving mental health or  
1075 substance abuse treatment ~~in any facility~~ shall have ready  
1076 access to a telephone in order to report ~~an~~ alleged abuse. The  
1077 facility staff shall orally and in writing inform each  
1078 individual patient of the procedure for reporting abuse and  
1079 shall make every reasonable effort to present the information in  
1080 a language the individual patient understands. A written copy of  
1081 that procedure, including the telephone number of the central  
1082 abuse hotline and reporting forms, must ~~shall~~ be posted in plain  
1083 view.



250728

1084 (f) The department shall adopt rules providing a procedure  
1085 for reporting abuse. ~~Facility staff shall be required,~~ As a  
1086 condition of employment, facility staff shall ~~to~~ become familiar  
1087 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

1088 (7) (6) CARE AND CUSTODY OF PERSONAL EFFECTS OF PATIENTS. ~~A~~  
1089 facility shall respect the rights of an individual with regard A  
1090 patient's right to the possession of his or her clothing and  
1091 personal effects ~~shall be respected~~. The facility may take  
1092 temporary custody of such effects if ~~when~~ required for medical  
1093 and safety reasons. The A patient's clothing and personal  
1094 effects shall be inventoried upon their removal into temporary  
1095 custody. Copies of this inventory shall be given to the  
1096 individual patient and to his or her ~~the patient's~~ guardian,  
1097 guardian advocate, health care surrogate or proxy, or  
1098 representative and shall be recorded in the ~~patient's~~ clinical  
1099 record. This inventory may be amended upon the request of the  
1100 individual patient or his or her ~~the patient's~~ guardian,  
1101 guardian advocate, health care surrogate or proxy, or  
1102 representative. The inventory and any amendments ~~to it~~ must be  
1103 witnessed by two members of the facility staff and by the  
1104 individual patient, if he or she is able. All of the a patient's  
1105 clothing and personal effects held by the facility shall be  
1106 returned to the individual patient immediately upon his or her  
1107 ~~the~~ discharge or transfer ~~of the patient~~ from the facility,  
1108 unless such return would be detrimental to the individual  
1109 ~~patient~~. If personal effects are not returned ~~to the patient,~~  
1110 the reason must be documented in the clinical record along with  
1111 the disposition of the clothing and personal effects, which may  
1112 be given instead to the individual's patient's guardian,



250728

1113 guardian advocate, health care surrogate or proxy, or  
1114 representative. As soon as practicable after an emergency  
1115 transfer ~~of a patient~~, the individual's ~~patient's~~ clothing and  
1116 personal effects shall be transferred to the individual's  
1117 ~~patient's~~ new location, together with a copy of the inventory  
1118 and any amendments, unless an alternate plan is approved by the  
1119 individual patient, if he or she is able, and by his or her ~~the~~  
1120 ~~patient's~~ guardian, guardian advocate, health care surrogate or  
1121 proxy, or representative.

1122 (8)(7) VOTING IN PUBLIC ELECTIONS.—A patient who is  
1123 eligible to vote according to the laws of the state has the  
1124 right to vote in the primary and general elections. The  
1125 department shall establish rules to enable patients to obtain  
1126 voter registration forms, applications for absentee ballots, and  
1127 absentee ballots.

1128 (9)(8) HABEAS CORPUS.—

1129 (a) At any time, and without notice, an individual ~~a person~~  
1130 held or admitted for mental health or substance abuse  
1131 examination or placement in a receiving or treatment facility,  
1132 or a relative, friend, guardian, guardian advocate, health care  
1133 surrogate or proxy, representative, or attorney, or the  
1134 department, on behalf of such individual ~~person~~, may petition  
1135 for a writ of habeas corpus to question the cause and legality  
1136 of such detention and request that the court order a return to  
1137 the writ in accordance with chapter 79. Each individual ~~patient~~  
1138 held in a facility shall receive a written notice of the right  
1139 to petition for a writ of habeas corpus.

1140 (b) At any time, and without notice, an individual held or  
1141 admitted for mental health or substance abuse examination or





250728

1142 placement ~~a person who is a patient~~ in a ~~receiving or treatment~~  
1143 facility, or a relative, friend, guardian, guardian advocate,  
1144 health care surrogate or proxy, representative, or attorney, or  
1145 the department, on behalf of such individual ~~person~~, may file a  
1146 petition in the circuit court in the county where the individual  
1147 ~~patient~~ is being held alleging that he or she ~~the patient~~ is  
1148 being unjustly denied a right or privilege granted under this  
1149 part herein or that a procedure authorized under this part  
1150 ~~herein~~ is being abused. Upon the filing of such a petition, the  
1151 court may ~~shall have the authority to~~ conduct a judicial inquiry  
1152 and ~~to~~ issue an ~~any~~ order ~~needed~~ to correct an abuse of ~~the~~  
1153 ~~provisions of~~ this part.

1154 (c) The administrator of any ~~receiving or treatment~~  
1155 facility receiving a petition under this subsection shall file  
1156 the petition with the clerk of the court on the next court  
1157 working day.

1158 (d) A ~~No~~ fee may not ~~shall~~ be charged for ~~the~~ filing ~~of~~ a  
1159 petition under this subsection.

1160 (10) ~~(9)~~ VIOLATIONS.—The department shall report to the  
1161 Agency for Health Care Administration any violation of the  
1162 rights or privileges of patients, or of any procedures provided  
1163 under this part, by any facility or professional licensed or  
1164 regulated by the agency. The agency is authorized to impose any  
1165 sanction authorized for violation of this part, based solely on  
1166 the investigation and findings of the department.

1167 (11) ~~(10)~~ LIABILITY FOR VIOLATIONS.—Any person who violates  
1168 or abuses any rights or privileges of patients provided by this  
1169 part is liable for damages as determined by law. Any person who  
1170 acts in good faith in compliance with the provisions of this



250728

1171 part is immune from civil or criminal liability for his or her  
1172 actions in connection with the admission, diagnosis, treatment,  
1173 or discharge of a patient to or from a facility. However, this  
1174 section does not relieve any person from liability if such  
1175 person commits negligence.

1176 (12) ~~(11)~~ RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE  
1177 PLANNING.—The patient shall have the opportunity to participate  
1178 in treatment and discharge planning and shall be notified in  
1179 writing of his or her right, upon discharge from the facility,  
1180 to seek treatment from the professional or agency of the  
1181 patient's choice.

1182 (13) ADVANCE DIRECTIVES.—All service providers under this  
1183 part shall provide information concerning advance directives to  
1184 individuals and assist those who are competent and willing to  
1185 complete an advance directive. The directive may include  
1186 instructions regarding mental health or substance abuse care.  
1187 Service providers under this part shall honor the advance  
1188 directive of individuals they serve, or shall request the  
1189 transfer of the individual as required under s. 765.1105.

1190 (14) ~~(12)~~ POSTING OF NOTICE OF RIGHTS OF PATIENTS.—Each  
1191 facility shall post a notice listing and describing, in the  
1192 language and terminology that the persons to whom the notice is  
1193 addressed can understand, the rights provided in this section.  
1194 This notice shall include a statement that provisions of the  
1195 federal Americans with Disabilities Act apply and the name and  
1196 telephone number of a person to contact for further information.  
1197 This notice shall be posted in a place readily accessible to  
1198 patients and in a format easily seen by patients. This notice  
1199 shall include the telephone numbers of the Florida local



250728

1200 advocacy council and Advocacy Center for Persons with  
1201 Disabilities, Inc.

1202 Section 11. Section 394.4597, Florida Statutes, is amended  
1203 to read:

1204 394.4597 Persons to be notified; appointment of a patient's  
1205 representative.—

1206 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual  
1207 ~~a patient~~ is voluntarily admitted to a receiving or treatment  
1208 facility, the individual shall be asked to identify a person to  
1209 be notified in case of an emergency, and the identity and  
1210 contact information of that a person to be notified in case of  
1211 an emergency shall be entered in the individual's patient's  
1212 clinical record.

1213 (2) INVOLUNTARY ADMISSION PATIENTS.—

1214 (a) At the time an individual ~~a patient~~ is admitted to a  
1215 facility for involuntary examination or placement, or when a  
1216 petition for involuntary placement is filed, the names,  
1217 addresses, and telephone numbers of the individual's patient's  
1218 guardian or guardian advocate, health care surrogate, or proxy,  
1219 or representative if he or she ~~the patient~~ has no guardian, and  
1220 the individual's patient's attorney shall be entered in the  
1221 ~~patient's clinical~~ record.

1222 (b) If the individual ~~patient~~ has no guardian, guardian  
1223 advocate, health care surrogate, or proxy, he or she ~~the patient~~  
1224 shall be asked to designate a representative. If the individual  
1225 ~~patient~~ is unable or unwilling to designate a representative,  
1226 the facility shall select a representative.

1227 (c) The individual ~~patient~~ shall be consulted with regard  
1228 to the selection of a representative by the receiving or



250728

1229 treatment facility and may ~~shall have authority to~~ request that  
1230 the any such representative be replaced.

1231 (d) If ~~When~~ the receiving or treatment facility selects a  
1232 representative, first preference shall be given to a health care  
1233 surrogate, if one has been previously selected ~~by the patient~~.  
1234 If the individual patient has not previously selected a health  
1235 care surrogate, the selection, except for good cause documented  
1236 in the individual's patient's clinical record, shall be made  
1237 from the following list in the order of listing:

- 1238 1. The individual's patient's spouse.
- 1239 2. An adult child of the individual patient.
- 1240 3. A parent of the individual patient.
- 1241 4. The adult next of kin of the individual patient.
- 1242 5. An adult friend of the individual patient.
- 1243 ~~6. The appropriate Florida local advocacy council as~~  
1244 ~~provided in s. 402.166.~~

1245 (e) The following persons are prohibited from selection as  
1246 an individual's representative:

- 1247 1. A professional providing clinical services to the  
1248 individual under this part;
- 1249 2. The licensed professional who initiated the involuntary  
1250 examination of the individual, if the examination was initiated  
1251 by professional certificate;
- 1252 3. An employee, administrator, or board member of the  
1253 facility providing the examination of the individual;
- 1254 4. An employee, administrator, or board member of a  
1255 treatment facility providing treatment of the individual;
- 1256 5. A person providing any substantial professional services  
1257 to the individual, including clinical and nonclinical services;



250728

- 1258       6. A creditor of the individual;
- 1259       7. A person subject to an injunction for protection against  
1260 domestic violence under s. 741.30, whether the order of  
1261 injunction is temporary or final, and for which the individual  
1262 was the petitioner; and
- 1263       8. A person subject to an injunction for protection against  
1264 repeat violence, sexual violence, or dating violence under s.  
1265 784.046, whether the order of injunction is temporary or final,  
1266 and for which the individual was the petitioner.
- 1267       ~~(e) A licensed professional providing services to the~~  
1268 ~~patient under this part, an employee of a facility providing~~  
1269 ~~direct services to the patient under this part, a department~~  
1270 ~~employee, a person providing other substantial services to the~~  
1271 ~~patient in a professional or business capacity, or a creditor of~~  
1272 ~~the patient shall not be appointed as the patient's~~  
1273 ~~representative.~~
- 1274       (f) The representative selected by the individual or  
1275 designated by the facility has the right to:
- 1276           1. Receive notice of the individual's admission;  
1277           2. Receive notice of proceedings affecting the individual;  
1278           3. Have immediate access to the individual unless such  
1279 access is documented to be detrimental to the individual;  
1280           4. Receive notice of any restriction of the individual's  
1281 right to communicate or receive visitors;  
1282           5. Receive a copy of the inventory of personal effects upon  
1283 the individual's admission and to request an amendment to the  
1284 inventory at any time;  
1285           6. Receive disposition of the individual's clothing and  
1286 personal effects if not returned to the individual, or to



250728

1287 approve an alternate plan;  
1288 7. Petition on behalf of the individual for a writ of  
1289 habeas corpus to question the cause and legality of the  
1290 individual's detention or to allege that the individual is being  
1291 unjustly denied a right or privilege granted under this part, or  
1292 that a procedure authorized under this part is being abused;  
1293 8. Apply for a change of venue for the individual's  
1294 involuntary placement hearing for the convenience of the parties  
1295 or witnesses or because of the individual's condition;  
1296 9. Receive written notice of any restriction of the  
1297 individual's right to inspect his or her clinical record;  
1298 10. Receive notice of the release of the individual from a  
1299 receiving facility where an involuntary examination was  
1300 performed;  
1301 11. Receive a copy of any petition for the individual's  
1302 involuntary placement filed with the court; and  
1303 12. Be informed by the court of the individual's right to  
1304 an independent expert evaluation pursuant to involuntary  
1305 placement procedures.  
1306 Section 12. Effective July 1, 2016, section 394.4598,  
1307 Florida Statutes, is amended to read:  
1308 394.4598 Guardian advocate.—  
1309 (1) The administrator may petition the court for the  
1310 appointment of a guardian advocate based upon the opinion of a  
1311 psychiatrist that an individual held for examination or admitted  
1312 for mental health or substance abuse treatment ~~the patient~~ is  
1313 incompetent to consent to treatment. If the court finds that the  
1314 individual ~~a patient~~ is incompetent to consent to treatment and  
1315 has not been adjudicated incapacitated and a guardian having



250728

1316 ~~with the~~ authority to consent to mental health or substance  
1317 abuse treatment has not been appointed, it shall appoint a  
1318 guardian advocate. The individual patient has the right to have  
1319 an attorney represent him or her at the hearing. If the  
1320 individual person is indigent, the court shall appoint the  
1321 office of the public defender to represent him or her at the  
1322 hearing. The individual patient has the right to testify, cross-  
1323 examine witnesses, and present witnesses. The proceeding must  
1324 ~~shall~~ be recorded ~~either~~ electronically or stenographically, and  
1325 testimony shall be ~~provided~~ under oath. One of the professionals  
1326 authorized to give an opinion in support of a petition for  
1327 involuntary placement, as described in s. 394.4655 or s.  
1328 394.467, shall ~~must~~ testify. The ~~A~~ guardian advocate shall ~~must~~  
1329 meet the qualifications of a guardian pursuant to ~~contained in~~  
1330 part IV of chapter 744, ~~except that a professional referred to~~  
1331 ~~in this part, an employee of the facility providing direct~~  
1332 ~~services to the patient under this part, a departmental~~  
1333 ~~employee, a facility administrator, or member of the Florida~~  
1334 ~~local advocacy council shall not be appointed. A person who is~~  
1335 ~~appointed as a guardian advocate must agree to the appointment.~~  
1336 A person may not be appointed as a guardian advocate unless he  
1337 or she agrees to the appointment.

1338 (2) The following persons are prohibited from being  
1339 appointed as an individual's guardian advocate:

1340 (a) A professional providing clinical services to the  
1341 individual under this part;

1342 (b) The licensed professional who initiated the involuntary  
1343 examination of the individual, if the examination was initiated  
1344 by professional certificate;



250728

1345           (c) An employee, administrator, or board member of the  
1346 facility providing the examination of the individual;  
1347           (d) An employee, administrator, or board member of a  
1348 treatment facility providing treatment of the individual;  
1349           (e) A person providing any substantial professional  
1350 services to the individual, including clinical and nonclinical  
1351 services;  
1352           (f) A creditor of the individual;  
1353           (g) A person subject to an injunction for protection  
1354 against domestic violence under s. 741.30, whether the order of  
1355 injunction is temporary or final, and for which the individual  
1356 was the petitioner; and  
1357           (h) A person subject to an injunction for protection  
1358 against repeat violence, sexual violence, or dating violence  
1359 under s. 784.046, whether the order of injunction is temporary  
1360 or final, and for which the individual was the petitioner.  
1361           (3)(2) A facility requesting appointment of a guardian  
1362 advocate must, prior to the appointment, provide the prospective  
1363 guardian advocate with information about the duties and  
1364 responsibilities of guardian advocates, including the  
1365 information about the ethics of medical decisionmaking. Before  
1366 asking a guardian advocate to give consent to treatment for an  
1367 individual held for examination or admitted for mental health or  
1368 substance abuse treatment a patient, the facility shall provide  
1369 to the guardian advocate sufficient information to allow so that  
1370 the guardian advocate to can decide whether to give express and  
1371 informed consent to the treatment, including information that  
1372 the treatment is essential to the care of the individual  
1373 patient, and that the treatment does not present an unreasonable





250728

1374 risk of serious, hazardous, or irreversible side effects. Before  
1375 giving consent to treatment, the guardian advocate must meet and  
1376 talk with the individual patient and the individual's patient's  
1377 physician face to face in person, if ~~at all~~ possible, and by  
1378 telephone, if not. The guardian advocate shall make every effort  
1379 to make decisions regarding treatment that he or she believes  
1380 the individual would have made under the circumstances if the  
1381 individual were capable of making such a decision. The decision  
1382 of the guardian advocate may be reviewed by the court, upon  
1383 petition of the individual's patient's attorney, the  
1384 individual's patient's family, or the facility administrator.

1385 (4)(3) Prior to A guardian advocate must attend at least a  
1386 4-hour training course approved by the court before exercising  
1387 his or her authority, ~~the guardian advocate shall attend a~~  
1388 ~~training course approved by the court.~~ This training course, ~~of~~  
1389 ~~not less than 4 hours,~~ must include, at minimum, information  
1390 about an the individual's patient rights, psychotropic  
1391 medications, diagnosis of mental illness or substance abuse  
1392 impairment, the ethics of medical decisionmaking, and the duties  
1393 of guardian advocates. This training course shall take the place  
1394 of the training required for guardians appointed pursuant to  
1395 chapter 744.

1396 (5)(4) The information to be supplied to prospective  
1397 guardian advocates before ~~prior to~~ their appointment and the  
1398 training course for guardian advocates must be developed and  
1399 completed through a course developed by the department and  
1400 approved by the chief judge of the circuit court and taught by a  
1401 court-approved organization. Court-approved organizations may  
1402 include, but need ~~are~~ not be limited to, community ~~or junior~~



250728

1403 colleges, guardianship organizations, and the local bar  
1404 association or The Florida Bar. The court may, ~~in its~~  
1405 ~~discretion,~~ waive some or all of the training requirements for  
1406 guardian advocates or impose additional requirements. The court  
1407 shall make its decision on a case-by-case basis and, in making  
1408 its decision, shall consider the experience and education of the  
1409 guardian advocate, the duties assigned to the guardian advocate,  
1410 and the needs of the individual subject to involuntary placement  
1411 patient.

1412 (6)~~(5)~~ In selecting a guardian advocate, the court shall  
1413 give preference to a health care surrogate, if one has already  
1414 been designated by the individual held for examination or  
1415 admitted for mental health or substance abuse treatment patient.  
1416 If the individual patient has not previously selected a health  
1417 care surrogate, except for good cause documented in the court  
1418 record, the selection shall be made from the following list in  
1419 the order of listing:

- 1420 (a) The individual's ~~patient's~~ spouse.  
1421 (b) An adult child of the individual patient.  
1422 (c) A parent of the individual patient.  
1423 (d) The adult next of kin of the individual patient.  
1424 (e) An adult friend of the individual patient.  
1425 (f) An adult trained and willing to serve as guardian  
1426 advocate for the individual patient.

1427 (7)~~(6)~~ If a guardian with the authority to consent to  
1428 medical treatment has not already been appointed or if the  
1429 individual held for examination or admitted for mental health or  
1430 substance abuse treatment patient has not already designated a  
1431 health care surrogate, the court may authorize the guardian



250728

1432 advocate to consent to medical treatment, as well as mental  
1433 health and substance abuse treatment. Unless otherwise limited  
1434 by the court, a guardian advocate with authority to consent to  
1435 medical treatment shall have the same authority to make health  
1436 care decisions and be subject to the same restrictions as a  
1437 proxy appointed under part IV of chapter 765. Unless the  
1438 guardian advocate has sought and received express court approval  
1439 in proceeding separate from the proceeding to determine the  
1440 competence of the patient to consent to medical treatment, the  
1441 guardian advocate may not consent to:

1442 (a) Abortion.

1443 (b) Sterilization.

1444 (c) Electroconvulsive treatment.

1445 (d) Psychosurgery.

1446 (e) Experimental treatments that have not been approved by  
1447 a federally approved institutional review board in accordance  
1448 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

1449  
1450 In making a medical treatment decision under this subsection,  
1451 the court shall ~~must~~ base its decision on evidence that the  
1452 treatment or procedure is essential to the care of the  
1453 individual ~~patient~~ and that the treatment does not present an  
1454 unreasonable risk of serious, hazardous, or irreversible side  
1455 effects. The court shall follow the procedures set forth in  
1456 subsection (1) of this section.

1457 ~~(8)-(7)~~ The guardian advocate shall be discharged when the  
1458 individual for whom he or she is appointed ~~patient~~ is discharged  
1459 from an order for involuntary outpatient ~~placement~~ or  
1460 involuntary inpatient placement or when the individual ~~patient~~



250728

1461 is transferred from involuntary to voluntary status. The court  
1462 ~~or a hearing officer~~ shall consider the competence of the  
1463 individual patient pursuant to subsection (1) and may consider  
1464 an involuntarily placed individual's patient's competence to  
1465 consent to treatment at any hearing. Upon sufficient evidence,  
1466 the court may restore, or the magistrate or administrative law  
1467 judge hearing officer may recommend that the court restore, the  
1468 individual's patient's competence. A copy of the order restoring  
1469 competence or the certificate of discharge containing the  
1470 restoration of competence shall be provided to the individual  
1471 ~~patient~~ and the guardian advocate.

1472 Section 13. Section 394.4599, Florida Statutes, is amended  
1473 to read:

1474 394.4599 Notice.—

1475 (1) VOLUNTARY ADMISSION PATIENTS.—Notice of an individual's  
1476 ~~a voluntary patient's~~ admission shall ~~only~~ be given only at the  
1477 request of the individual patient, except that, in an emergency,  
1478 notice shall be given as determined by the facility.

1479 (2) INVOLUNTARY ADMISSION PATIENTS.—

1480 (a) Whenever notice is required to be given under this  
1481 part, such notice shall be given to the individual patient and  
1482 the individual's patient's guardian, guardian advocate, health  
1483 care surrogate or proxy, attorney, and representative.

1484 1. When notice is required to be given to an individual a  
1485 ~~patient~~, it shall be given both orally and in writing, in the  
1486 language and terminology that the individual patient can  
1487 understand, and, if needed, the facility shall provide an  
1488 interpreter for the individual patient.

1489 2. Notice to an individual's a patient's guardian, guardian



250728

1490 advocate, health care surrogate or proxy, attorney, and  
1491 representative shall be given by ~~United States mail and by~~  
1492 ~~registered or certified~~ mail with the date, time, and method of  
1493 notice delivery documented in receipts attached to the patient's  
1494 clinical record. Hand delivery by a facility employee may be  
1495 used as an alternative, with the date and time of delivery  
1496 documented in the clinical record. If notice is given by a state  
1497 attorney or an attorney for the department, a certificate of  
1498 service is ~~shall be~~ sufficient to document service.

1499 (b) A receiving facility shall give prompt notice of the  
1500 whereabouts of an individual ~~a patient~~ who is being  
1501 involuntarily held for examination to the individual's guardian,  
1502 guardian advocate, health care surrogate or proxy, attorney or  
1503 representative, by telephone or in person within 24 hours after  
1504 the individual's patient's arrival at the facility, ~~unless the~~  
1505 ~~patient requests that no notification be made~~. Contact attempts  
1506 shall be documented in the individual's patient's clinical  
1507 record and shall begin as soon as reasonably possible after the  
1508 individual's patient's arrival. ~~Notice that a patient is being~~  
1509 ~~admitted as an involuntary patient shall be given to the Florida~~  
1510 ~~local advocacy council no later than the next working day after~~  
1511 ~~the patient is admitted.~~

1512 (c)1. A receiving facility shall give notice of the  
1513 whereabouts of a minor who is being involuntarily held for  
1514 examination pursuant to s. 394.463 to the minor's parent,  
1515 guardian, caregiver, or guardian advocate, in person or by  
1516 telephone or other form of electronic communication, immediately  
1517 after the minor's arrival at the facility. The facility may not  
1518 delay notification for no more than 24 hours after the minor's



250728

1519 arrival if the facility has submitted a report to the central  
1520 abuse hotline, pursuant to s. 39.201, based upon knowledge or  
1521 suspicion of abuse, abandonment, or neglect and if the facility  
1522 deems a delay in notification to be in the minor's best  
1523 interest.

1524 2. The receiving facility shall attempt to notify the  
1525 minor's parent, guardian, caregiver, or guardian advocate until  
1526 the receiving facility receives confirmation from the parent,  
1527 guardian, caregiver, or guardian advocate, verbally, by  
1528 telephone or other form of electronic communication, or by  
1529 recorded message, that notification has been received. Attempts  
1530 to notify the parent, guardian, caregiver, or guardian advocate  
1531 must be repeated at least once each hour during the first 12  
1532 hours after the minor's arrival and once every 24 hours  
1533 thereafter and must continue until such confirmation is  
1534 received, unless the minor is released at the end of the 72-hour  
1535 examination period, or until a petition for involuntary  
1536 placement is filed with the court pursuant to s. 394.463(2)(i).  
1537 The receiving facility may seek assistance from a law  
1538 enforcement agency to notify the minor's parent, guardian,  
1539 caregiver, or guardian advocate if the facility has not  
1540 received, within the first 24 hours after the minor's arrival, a  
1541 confirmation by the parent, guardian, caregiver, or guardian  
1542 advocate that notification has been received. The receiving  
1543 facility must document notification attempts in the minor's  
1544 clinical record.

1545 (d)~~(e)~~ The written notice of the filing of the petition for  
1546 involuntary placement of an individual being held must contain  
1547 the following:



250728

1548 1. Notice that the petition has been filed with the circuit  
1549 court in the county in which the individual patient is  
1550 hospitalized and the address of such court.

1551 2. Notice that the office of the public defender has been  
1552 appointed to represent the individual patient in the proceeding,  
1553 if the individual patient is not otherwise represented by  
1554 counsel.

1555 3. The date, time, and place of the hearing and the name of  
1556 each examining expert and every other person expected to testify  
1557 in support of continued detention.

1558 4. Notice that the individual patient, the individual's  
1559 patient's guardian, guardian advocate, health care surrogate or  
1560 proxy, or representative, or the administrator may apply for a  
1561 change of venue for the convenience of the parties or witnesses  
1562 or because of the condition of the individual patient.

1563 5. Notice that the individual patient is entitled to an  
1564 independent expert examination and, if the individual patient  
1565 cannot afford such an examination, that the court will provide  
1566 for one.

1567 (e)~~(d)~~ A treatment facility shall provide notice of an  
1568 individual's a patient's involuntary admission on the next  
1569 regular working day after the individual's patient's arrival at  
1570 the facility.

1571 (f)~~(e)~~ When an individual a patient is to be transferred  
1572 from one facility to another, notice shall be given by the  
1573 facility where the individual patient is located before ~~prior to~~  
1574 the transfer.

1575 Section 14. Effective July 1, 2016, subsections (1), (2),  
1576 (3), and (10) of section 394.4615, Florida Statutes, are amended



250728

1577 to read:

1578 394.4615 Clinical records; confidentiality.—

1579 (1) A clinical record shall be maintained for each  
1580 individual held for examination or admitted for treatment under  
1581 this part patient. The record shall include data pertaining to  
1582 admission and such other information as may be required under  
1583 rules of the department. A clinical record is confidential and  
1584 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by  
1585 express and informed consent of the individual, by the patient  
1586 or his or her the patient's guardian, or guardian advocate,  
1587 health care surrogate or proxy, or, if the individual patient is  
1588 deceased, by his or her guardian, guardian advocate, health care  
1589 surrogate or proxy, by his or her the patient's personal  
1590 representative or the family member who stands next in line of  
1591 intestate succession, the confidential status of the clinical  
1592 record shall not be lost by either authorized or unauthorized  
1593 disclosure to any person, organization, or agency.

1594 (2) The clinical record of an individual held for  
1595 examination or admitted for treatment under this part shall be  
1596 released if when:

1597 (a) The individual patient or the individual's patient's  
1598 guardian, guardian advocate, health care surrogate or proxy, or  
1599 representative authorizes the release. The guardian, ~~or~~ guardian  
1600 advocate, health care surrogate or proxy shall be provided  
1601 access to the appropriate clinical records ~~of the patient~~. The  
1602 individual patient or the patient's guardian, or guardian  
1603 advocate, health care surrogate or proxy may authorize the  
1604 release of information and clinical records to appropriate  
1605 persons to ensure the continuity of the individual's patient's





250728

1606 health ~~care~~ or mental health or substance abuse care.

1607 (b) The individual patient is represented by counsel and  
1608 the records are needed by the individual's patient's counsel for  
1609 adequate representation.

1610 (c) A petition for involuntary inpatient placement is filed  
1611 and the records are needed by the state attorney to evaluate the  
1612 allegations set forth in the petition or to prosecute the  
1613 petition. However, the state attorney may not use clinical  
1614 records obtained under this part for the purpose of criminal  
1615 investigation or prosecution, or for any other purpose not  
1616 authorized by this part.

1617 (d)(e) The court orders such release. In determining  
1618 whether there is good cause for disclosure, the court shall  
1619 weigh the need for the information to be disclosed against the  
1620 possible harm of disclosure to the individual person to whom  
1621 such information pertains.

1622 (e)(d) The individual patient is committed to, or is to be  
1623 returned to, the Department of Corrections ~~from the Department~~  
1624 ~~of Children and Families,~~ and the Department of Corrections  
1625 requests such records. These records shall be furnished without  
1626 charge to the Department of Corrections.

1627 (3) Information from the clinical record may be released in  
1628 the following circumstances:

1629 (a) When a patient has declared an intention to harm other  
1630 persons. When such declaration has been made, the administrator  
1631 may authorize the release of sufficient information to provide  
1632 adequate warning to law enforcement agencies and to the person  
1633 threatened with harm by the patient.

1634 (b) When the administrator of the facility or secretary of



250728

1635 the department deems release to a qualified researcher as  
1636 defined in administrative rule, an aftercare treatment provider,  
1637 or an employee or agent of the department is necessary for  
1638 treatment of the patient, maintenance of adequate records,  
1639 compilation of treatment data, aftercare planning, or evaluation  
1640 of programs.

1641  
1642 For the purpose of determining whether a person meets the  
1643 criteria for involuntary outpatient placement or for preparing  
1644 the proposed treatment plan pursuant to s. 394.4655, the  
1645 clinical record may be released to the state attorney, the  
1646 public defender or the patient's private legal counsel, the  
1647 court, and to the appropriate mental health professionals,  
1648 including the service provider identified in s. 394.4655(7)(b)  
1649 ~~s. 394.4655(6)(b)2.~~, in accordance with state and federal law.

1650 (10) An individual held for examination or admitted for  
1651 treatment ~~Patients~~ shall have reasonable access to his or her  
1652 ~~their~~ clinical records, unless such access is determined by the  
1653 individual's ~~patient's~~ physician to be harmful to the individual  
1654 ~~patient~~. If the individual's ~~patient's~~ right to inspect his or  
1655 her clinical record is restricted by the facility, written  
1656 notice of such restriction shall be given to the individual  
1657 ~~patient~~ and the individual's ~~patient's~~ guardian, guardian  
1658 advocate, health care surrogate or proxy, or attorney, and  
1659 representative. In addition, the restriction shall be recorded  
1660 in the clinical record, together with the reasons for it. The  
1661 restriction of an individual's ~~a patient's~~ right to inspect his  
1662 or her clinical record shall expire after 7 days but may be  
1663 renewed, after review, for subsequent 7-day periods.



250728

1664 Section 15. Effective July 1, 2016, paragraphs (a) through  
1665 (m) of subsection (1) of section 394.462, Florida Statutes, are  
1666 amended, and paragraph (n) is added to that subsection, to read:

1667 394.462 Transportation.—

1668 (1) TRANSPORTATION TO A RECEIVING OR DETOXIFICATION  
1669 FACILITY.—

1670 (a) Each county shall designate a single law enforcement  
1671 agency within the county, or portions thereof, to take an  
1672 individual ~~a person~~ into custody upon the entry of an ex parte  
1673 order or the execution of a certificate for involuntary  
1674 examination by an authorized professional and to transport that  
1675 individual ~~person~~ to the nearest receiving facility for  
1676 examination. The designated law enforcement agency may decline  
1677 to transport the individual ~~person~~ to a receiving or  
1678 detoxification facility only if:

1679 1. The county or jurisdiction designated by the county has  
1680 contracted ~~on an annual basis~~ with an emergency medical  
1681 transport service or private transport company for  
1682 transportation of individuals ~~persons~~ to receiving facilities  
1683 ~~pursuant to this section at the sole cost of the county;~~ and

1684 2. The law enforcement agency and the emergency medical  
1685 transport service or private transport company agree that the  
1686 continued presence of law enforcement personnel is not necessary  
1687 for the safety of the individuals being transported ~~person~~ or  
1688 others.

1689 3. The jurisdiction designated by the county may seek  
1690 reimbursement for transportation expenses. The party responsible  
1691 for payment for such transportation is the person receiving the  
1692 transportation. The county shall seek reimbursement from the



250728

1693 following sources in the following order:

1694 a. From an insurance company, health care corporation, or  
1695 other source, if the individual being transported ~~person~~  
1696 ~~receiving the transportation~~ is covered by an insurance policy  
1697 or subscribes to a health care corporation or other source for  
1698 payment of such expenses.

1699 b. From the individual being transported ~~person receiving~~  
1700 ~~the transportation~~.

1701 c. From a financial settlement for medical care, treatment,  
1702 hospitalization, or transportation payable or accruing to the  
1703 injured party.

1704 (b) Any company that transports a patient pursuant to this  
1705 subsection is considered an independent contractor and is solely  
1706 liable for the safe and dignified transportation of the patient.  
1707 Such company must be insured and provide no less than \$100,000  
1708 in liability insurance with respect to the transportation of  
1709 patients.

1710 (c) Any company that contracts with a governing board of a  
1711 county to transport patients shall comply with the applicable  
1712 rules of the department to ensure the safety and dignity of the  
1713 patients.

1714 (d) When a law enforcement officer takes custody of a  
1715 person pursuant to this part, the officer may request assistance  
1716 from emergency medical personnel if such assistance is needed  
1717 for the safety of the officer or the person in custody.

1718 (e) When a member of a mental health overlay program or a  
1719 mobile crisis response service is a professional authorized to  
1720 initiate an involuntary examination pursuant to s. 394.463 and  
1721 that professional evaluates a person and determines that



250728

1722 transportation to a receiving facility is needed, the service,  
1723 at its discretion, may transport the person to the facility or  
1724 may call on the law enforcement agency or other transportation  
1725 arrangement best suited to the needs of the patient.

1726 (f) When a any law enforcement officer has custody of a  
1727 person, based on ~~either noncriminal or minor criminal~~ behavior,  
1728 a misdemeanor, or a felony other than a forcible felony as  
1729 defined in s. 776.08, who ~~that~~ meets the statutory guidelines  
1730 for involuntary examination under this part, the law enforcement  
1731 officer shall transport the individual ~~person~~ to the nearest  
1732 receiving facility for examination.

1733 (g) When any law enforcement officer has arrested a person  
1734 for a forcible felony as defined in s. 776.08 and it appears  
1735 that the person meets the criteria ~~statutory guidelines~~ for  
1736 involuntary examination ~~or placement~~ under this part, such  
1737 person shall first be processed in the same manner as any other  
1738 criminal suspect. The law enforcement agency shall thereafter  
1739 immediately notify the nearest public receiving facility, which  
1740 shall be responsible for promptly arranging for the examination  
1741 and treatment of the person. A receiving facility may not ~~is not~~  
1742 ~~required to~~ admit a person charged with a forcible felony as  
1743 defined in s. 776.08 ~~crime~~ for whom the facility determines and  
1744 documents that it is unable to provide adequate security, but  
1745 shall provide ~~mental health~~ examination and treatment to the  
1746 person at the location where he or she is held.

1747 (h) If the appropriate law enforcement officer believes  
1748 that a person has an emergency medical condition as defined in  
1749 s. 395.002, the person may be first transported to a hospital  
1750 for emergency medical treatment, regardless of whether the



250728

1751 hospital is a designated receiving facility.

1752 (i) The costs of transportation, evaluation,  
1753 hospitalization, and treatment incurred under this subsection by  
1754 persons who have been arrested for violations of any state law  
1755 or county or municipal ordinance may be recovered as provided in  
1756 s. 901.35.

1757 (j) The nearest receiving facility must accept persons  
1758 brought by law enforcement officers for involuntary examination.

1759 (k) Each law enforcement agency shall develop a memorandum  
1760 of understanding with each receiving facility within the law  
1761 enforcement agency's jurisdiction which reflects a single set of  
1762 protocols for the safe and secure transportation of the person  
1763 and transfer of custody of the person. These protocols must also  
1764 address crisis intervention measures.

1765 (l) When a jurisdiction has entered into a contract with an  
1766 emergency medical transport service or a private transport  
1767 company for transportation of persons to receiving facilities,  
1768 such service or company shall be given preference for  
1769 transportation of persons from nursing homes, assisted living  
1770 facilities, adult day care centers, or adult family-care homes,  
1771 unless the behavior of the person being transported is such that  
1772 transportation by a law enforcement officer is necessary.

1773 (m) Nothing in this section shall be construed to limit  
1774 emergency examination and treatment of incapacitated persons  
1775 provided in accordance with the provisions of s. 401.445.

1776 (n) Upon the request of an individual who appears to meet  
1777 criteria for voluntary admission under s. 394.4625(1)(a), a law  
1778 enforcement officer may transport him or her to a mental health  
1779 receiving facility, addictions receiving facility, or



250728

1780 detoxification facility.

1781       Section 16. Effective July 1, 2016, subsections (1), (2),  
1782 (4), and (5) of section 394.4625, Florida Statutes, are amended  
1783 to read:

1784       394.4625 Voluntary admissions.—

1785       (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE  
1786 PATIENTS.—

1787       (a) In order to be voluntarily admitted to a facility A  
1788 facility may receive for observation, diagnosis, or treatment:  
1789 any person 18 years of age or older making application by  
1790 express and informed consent for admission or any person age 17  
1791 or under for whom such application is made by his or her  
1792 guardian. If found to

1793       1. An individual must show evidence of mental illness or  
1794 substance abuse impairment, to be competent to provide express  
1795 and informed consent, and to be suitable for treatment, such  
1796 person 18 years of age or older may be admitted to the facility.  
1797 A person age 17 or under may be admitted only after a hearing to  
1798 verify the voluntariness of the consent.

1799       2. An individual must be suitable for treatment by the  
1800 facility.

1801       3. An adult must provide, and be competent to provide,  
1802 express and informed consent.

1803       4. A minor's guardian must provide express and informed  
1804 consent, in conjunction with the consent of the minor. However,  
1805 a minor may be admitted to an addictions receiving facility or  
1806 detoxification facility by his or her own consent without his or  
1807 her guardian's consent, if a physician documents in the clinical  
1808 record that the minor has a substance abuse impairment. If the



250728

1809 minor is admitted by his or her own consent and without the  
1810 consent of his or her guardian, the facility must request the  
1811 minor's permission to notify an adult family member or friend of  
1812 the minor's voluntary admission into the facility.

1813 a. The consent of the minor is an affirmative agreement by  
1814 the minor to remain at the facility for examination and  
1815 treatment, and failure to object does not constitute consent.

1816 b. The minor's consent must be verified through a clinical  
1817 assessment that is documented in the clinical record and  
1818 conducted within 12 hours after arrival at the facility by a  
1819 licensed professional authorized to initiate an involuntary  
1820 examination pursuant to s. 394.463.

1821 c. In verifying the minor's consent, and using language  
1822 that is appropriate to the minor's age, experience, maturity,  
1823 and condition, the examining professional must provide the minor  
1824 with an explanation as to why the minor will be examined and  
1825 treated, what the minor can expect while in the facility, and  
1826 when the minor may expect to be released. The examining  
1827 professional must determine and document that the minor is able  
1828 to understand the information.

1829 d. Unless the minor's consent is verified pursuant to this  
1830 section, a petition for involuntary inpatient placement shall be  
1831 filed with the court within 1 court working day after his or her  
1832 arrival or the minor must be released to his or her guardian.

1833 (b) A mental health overlay program or a mobile crisis  
1834 response service or a licensed professional who is authorized to  
1835 initiate an involuntary examination pursuant to s. 394.463 and  
1836 is employed by a community mental health center or clinic must,  
1837 pursuant to district procedure approved by the respective





250728

1838 district administrator, conduct an initial assessment of the  
1839 ability of the following persons to give express and informed  
1840 consent to treatment before such persons may be admitted  
1841 voluntarily:

1842         1. A person 60 years of age or older for whom transfer is  
1843 being sought from a nursing home, assisted living facility,  
1844 adult day care center, or adult family-care home, when such  
1845 person has been diagnosed as suffering from dementia.

1846         2. A person 60 years of age or older for whom transfer is  
1847 being sought from a nursing home pursuant to s. 400.0255(12).

1848         3. A person for whom all decisions concerning medical  
1849 treatment are currently being lawfully made by the health care  
1850 surrogate or proxy designated under chapter 765.

1851         (c) When an initial assessment of the ability of a person  
1852 to give express and informed consent to treatment is required  
1853 under this section, and a mobile crisis response service does  
1854 not respond to the request for an assessment within 2 hours  
1855 after the request is made or informs the requesting facility  
1856 that it will not be able to respond within 2 hours after the  
1857 request is made, the requesting facility may arrange for  
1858 assessment by any licensed professional authorized to initiate  
1859 an involuntary examination pursuant to s. 394.463 who is not  
1860 employed by or under contract with, and does not have a  
1861 financial interest in, either the facility initiating the  
1862 transfer or the receiving facility to which the transfer may be  
1863 made.

1864         (d) A facility may not admit as a voluntary patient a  
1865 person who has been adjudicated incapacitated, unless the  
1866 condition of incapacity has been judicially removed. If a



250728

1867 facility admits as a voluntary patient a person who is later  
1868 determined to have been adjudicated incapacitated, and the  
1869 condition of incapacity had not been removed by the time of the  
1870 admission, the facility must either discharge the patient or  
1871 transfer the patient to involuntary status.

1872 (e) The health care surrogate or proxy of an individual on  
1873 a voluntary status patient may not consent to the provision of  
1874 mental health treatment or substance abuse treatment for that  
1875 individual the patient. An individual on voluntary status A  
1876 voluntary patient who is unwilling or unable to provide express  
1877 and informed consent to mental health treatment must ~~either~~ be  
1878 discharged or transferred to involuntary status.

1879 (f) Within 24 hours after admission of a voluntary patient,  
1880 the admitting physician shall document in the patient's clinical  
1881 record that the patient is able to give express and informed  
1882 consent for admission. If the patient is not able to give  
1883 express and informed consent for admission, the facility shall  
1884 either discharge the patient or transfer the patient to  
1885 involuntary status pursuant to subsection (5).

1886 (2) RELEASE OR DISCHARGE OF VOLUNTARY PATIENTS.-

1887 (a) A facility shall discharge a voluntary patient:

1888 1. Who has sufficiently improved so that retention in the  
1889 facility is no longer desirable. A patient may also be  
1890 discharged to the care of a community facility.

1891 2. Who revokes consent to admission or requests discharge.  
1892 A voluntary patient or a relative, friend, or attorney of the  
1893 patient may request discharge either orally or in writing at any  
1894 time following admission to the facility. The patient must be  
1895 discharged within 24 hours of the request, unless the request is



250728

1896 rescinded or the patient is transferred to involuntary status  
1897 pursuant to this section. The 24-hour time period may be  
1898 extended by a treatment facility when necessary for adequate  
1899 discharge planning, but shall not exceed 3 days exclusive of  
1900 weekends and holidays. If the patient, or another on the  
1901 patient's behalf, makes an oral request for discharge to a staff  
1902 member, such request shall be immediately entered in the  
1903 patient's clinical record. If the request for discharge is made  
1904 by a person other than the patient, the discharge may be  
1905 conditioned upon the express and informed consent of the  
1906 patient.

1907 (b) A voluntary patient who has been admitted to a facility  
1908 and who refuses to consent to or revokes consent to treatment  
1909 shall be discharged within 24 hours after such refusal or  
1910 revocation, unless transferred to involuntary status pursuant to  
1911 this section or unless the refusal or revocation is freely and  
1912 voluntarily rescinded by the patient.

1913 (c) An individual on voluntary status who is currently  
1914 charged with a crime shall be returned to the custody of a law  
1915 enforcement officer upon release or discharge from a facility,  
1916 unless the individual has been released from law enforcement  
1917 custody by posting of a bond, by a pretrial conditional release,  
1918 or by other judicial release.

1919 (4) TRANSFER TO VOLUNTARY STATUS.—An individual on  
1920 involuntary status ~~patient~~ who has been assessed and certified  
1921 by a physician or psychologist as competent to provide express  
1922 and informed consent and who applies to be transferred to  
1923 voluntary status shall be transferred to voluntary status  
1924 immediately, unless the individual ~~patient has been charged with~~



250728

1925 ~~a crime, or~~ has been involuntarily placed for treatment by a  
1926 court pursuant to s. 394.467 and continues to meet the criteria  
1927 for involuntary placement. When transfer to voluntary status  
1928 occurs, notice shall be given as provided in s. 394.4599.

1929 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on  
1930 ~~When a voluntary status patient,~~ or an authorized person on the  
1931 individual's patient's behalf, makes a request for discharge,  
1932 the request for discharge, unless freely and voluntarily  
1933 rescinded, must be communicated to a physician, ~~clinical~~  
1934 psychologist, or psychiatrist as quickly as possible within, ~~but~~  
1935 ~~not later than~~ 12 hours after the request is made. If the  
1936 individual patient meets the criteria for involuntary placement,  
1937 the individual must be transferred to a designated receiving  
1938 facility and the administrator of the receiving facility where  
1939 the individual is held must file with the court a petition for  
1940 involuntary placement, ~~within 2 court working days after the~~  
1941 request ~~for discharge~~ is made. If the petition is not filed  
1942 within 2 court working days, the individual must patient shall  
1943 be discharged. Pending the filing of the petition, the  
1944 individual patient may be held and emergency mental health  
1945 treatment rendered in the least restrictive manner, upon the  
1946 written order of a physician, if it is determined that such  
1947 treatment is necessary for the safety of the individual patient  
1948 or others.

1949 Section 17. Effective July 1, 2016, section 394.463,  
1950 Florida Statutes, is amended to read:

1951 394.463 Involuntary examination.—

1952 (1) CRITERIA.—A person may be subject to an ~~taken to a~~  
1953 ~~receiving facility for~~ involuntary examination if there is



250728

1954 reason to believe that he or she ~~the person~~ has a mental illness  
1955 or substance abuse impairment and because of this ~~his or her~~  
1956 mental illness or substance abuse impairment:

1957 (a)1. The person has refused voluntary examination after  
1958 conscientious explanation and disclosure of the purpose of the  
1959 examination; or

1960 2. The person is unable to determine for himself or herself  
1961 whether examination is necessary; and

1962 (b)1. Without care or treatment, the person is likely to  
1963 suffer from neglect or refuse to care for himself or herself;  
1964 such neglect or refusal poses a real and present threat of  
1965 substantial harm to his or her well-being; and it is not  
1966 apparent that such harm may be avoided through the help of  
1967 willing family members or friends or the provision of other  
1968 services; or

1969 2. There is a substantial likelihood that without care or  
1970 treatment the person will cause serious bodily harm to himself  
1971 or herself or others in the near future, as evidenced by recent  
1972 behavior.

1973 (2) INVOLUNTARY EXAMINATION.—

1974 (a) An involuntary examination may be initiated by any one  
1975 of the following means:

1976 1. A court may enter an ex parte order stating that an  
1977 individual ~~a person~~ appears to meet the criteria for involuntary  
1978 examination, giving the findings on which that conclusion is  
1979 based. The ex parte order for involuntary examination must be  
1980 based on sworn testimony, written or oral, which includes  
1981 specific facts that support the finding that the criteria have  
1982 been met. Any behavior relied on for the issuance of an ex parte



250728

1983 order must have occurred within the preceding 7 calendar days.  
1984 The order must specify whether the individual must be taken to a  
1985 mental health facility, detoxification facility, or addictions  
1986 receiving facility. ~~If other less restrictive means are not~~  
1987 ~~available, such as voluntary appearance for outpatient~~  
1988 ~~evaluation,~~ A law enforcement officer, or other designated agent  
1989 of the court, shall take the individual person into custody and  
1990 deliver him or her to the nearest ~~receiving~~ facility of the type  
1991 specified in the order for involuntary examination. However, if  
1992 the county in which the individual is taken into custody has a  
1993 transportation exception plan specifying a central receiving  
1994 facility, the law enforcement officer shall transport the  
1995 individual to the central receiving facility pursuant to the  
1996 plan. ~~The order of the court order must shall~~ be made a part of  
1997 the ~~patient's~~ clinical record. A No fee may not shall be charged  
1998 for the filing of an order under this subsection. Any ~~receiving~~  
1999 facility accepting the individual patient based on the court's  
2000 ~~this~~ order must send a copy of the order to the Agency for  
2001 Health Care Administration on the next working day. The order is  
2002 ~~shall be~~ valid only until executed or, if not executed, for the  
2003 period specified in the order itself. If no time limit is  
2004 specified in the order, the order is shall be valid for 7 days  
2005 after the date it that the order was signed.

2006         2. A law enforcement officer shall take a person who  
2007 appears to meet the criteria for involuntary examination into  
2008 custody and deliver ~~the person or have~~ him or her ~~delivered~~ to  
2009 the nearest mental health receiving facility, addictions  
2010 receiving facility, or detoxification facility, whichever the  
2011 officer determines is most appropriate for examination. However,



250728

2012 if the county in which the individual taken into custody has a  
2013 transportation exception plan specifying a central receiving  
2014 facility, the law enforcement officer shall transport the  
2015 individual to the central receiving facility pursuant to the  
2016 plan. The officer shall complete ~~execute~~ a written report  
2017 detailing the circumstances under which the individual ~~person~~  
2018 was taken into custody. ~~and~~ The report shall be made a part of  
2019 the patient's clinical record. Any receiving facility or  
2020 detoxification facility accepting the individual ~~patient~~ based  
2021 on the ~~this~~ report must send a copy of the report to the Agency  
2022 for Health Care Administration on the next working day.

2023         3. A physician, physician assistant, clinical psychologist,  
2024 advanced registered nurse practitioner certified pursuant to s.  
2025 464.012, psychiatric nurse, mental health counselor, marriage  
2026 and family therapist, or clinical social worker may execute a  
2027 certificate stating that he or she has examined the individual ~~a~~  
2028 person within the preceding 48 hours and finds that the  
2029 individual ~~person~~ appears to meet the criteria for involuntary  
2030 examination and stating the observations upon which that  
2031 conclusion is based. The certificate must specify whether the  
2032 individual is to be taken to a mental health receiving facility,  
2033 an addictions receiving facility, or a detoxification facility,  
2034 and must include specific facts supporting the conclusion that  
2035 the individual would benefit from services provided by the type  
2036 of facility specified. ~~If other less restrictive means are not~~  
2037 available, such as voluntary appearance for outpatient  
2038 evaluation. A law enforcement officer shall take the individual  
2039 ~~person~~ named in the certificate into custody and deliver him or  
2040 her to the nearest ~~receiving~~ facility of the type specified in



250728

2041 the certificate for involuntary examination. However, if the  
2042 county in which the individual is taken into custody has a  
2043 transportation exception plan specifying a central receiving  
2044 facility, the law enforcement officer shall transport the  
2045 individual to the central receiving facility pursuant to the  
2046 plan. A law enforcement officer may only take an individual into  
2047 custody on the basis of a certificate within 7 calendar days  
2048 after execution of the certificate. The law enforcement officer  
2049 shall complete ~~execute~~ a written report detailing the  
2050 circumstances under which the individual ~~person~~ was taken into  
2051 custody. The report and certificate shall be made a part of the  
2052 ~~patient's~~ clinical record. Any ~~receiving~~ facility accepting the  
2053 individual ~~patient~~ based on the ~~this~~ certificate must send a  
2054 copy of the certificate to the Agency for Health Care  
2055 Administration on the next working day.

2056 (b) An individual may ~~A person shall~~ not be removed from a  
2057 ~~any~~ program or residential placement licensed under chapter 400  
2058 or chapter 429 and transported to a receiving facility for  
2059 involuntary examination unless an ex parte order, a professional  
2060 certificate, or a law enforcement officer's report is first  
2061 prepared. If the condition of the individual ~~person~~ is such that  
2062 preparation of a law enforcement officer's report is not  
2063 practicable before removal, the report must ~~shall~~ be completed  
2064 as soon as possible after removal, but ~~in any case~~ before the  
2065 individual ~~person~~ is transported to a receiving facility. A  
2066 receiving facility admitting an individual ~~a person~~ for  
2067 involuntary examination who is not accompanied by the required  
2068 ex parte order, professional certificate, or law enforcement  
2069 officer's report must ~~shall~~ notify the Agency for Health Care





250728

2070 Administration of such admission by certified mail by no later  
2071 ~~than~~ the next working day. ~~The provisions of this paragraph do~~  
2072 ~~not apply when transportation is provided by the patient's~~  
2073 ~~family or guardian.~~

2074 (c) A law enforcement officer acting in accordance with an  
2075 ex parte order issued pursuant to this subsection may serve and  
2076 execute such order on any day of the week, at any time of the  
2077 day or night.

2078 (d) A law enforcement officer acting in accordance with an  
2079 ex parte order issued pursuant to this subsection may use such  
2080 reasonable physical force as is necessary to gain entry to the  
2081 premises, and any dwellings, buildings, or other structures  
2082 located on the premises, and to take custody of the person who  
2083 is the subject of the ex parte order.

2084 (e) Petitions and ~~The Agency for Health Care Administration~~  
2085 ~~shall receive and maintain the copies of ex parte orders,~~  
2086 ~~involuntary outpatient placement orders,~~ involuntary outpatient  
2087 placement petitions and orders issued pursuant to s. 394.4655,  
2088 involuntary inpatient placement petitions and orders issued  
2089 pursuant to s. 394.467, professional certificates, and law  
2090 enforcement officers' reports are. ~~These documents shall be~~  
2091 ~~considered part of the clinical record,~~ governed by ~~the~~  
2092 ~~provisions of~~ s. 394.4615. The agency shall prepare annual  
2093 reports analyzing the data obtained from these documents,  
2094 without information identifying individuals held for examination  
2095 or admitted for mental health and substance abuse treatment  
2096 ~~patients,~~ and shall provide copies of reports to the department,  
2097 the President of the Senate, the Speaker of the House of  
2098 Representatives, and the minority leaders of the Senate and the



250728

2099 House of Representatives.

2100 (f) An individual held for examination ~~A patient~~ shall be  
2101 examined by a physician, a ~~or~~ clinical psychologist, or a  
2102 psychiatric nurse performing within the framework of an  
2103 established protocol with a psychiatrist at a receiving facility  
2104 without unnecessary delay and may, upon the order of a  
2105 physician, be given emergency mental health or substance abuse  
2106 treatment if it is determined that such treatment is necessary  
2107 for the safety of the individual ~~patient~~ or others. ~~The patient~~  
2108 ~~may not be released by the receiving facility or its contractor~~  
2109 ~~without the documented approval of a psychiatrist, a clinical~~  
2110 ~~psychologist, or, if the receiving facility is a hospital, the~~  
2111 ~~release may also be approved by an attending emergency~~  
2112 ~~department physician with experience in the diagnosis and~~  
2113 ~~treatment of mental and nervous disorders and after completion~~  
2114 ~~of an involuntary examination pursuant to this subsection.~~  
2115 ~~However, a patient may not be held in a receiving facility for~~  
2116 ~~involuntary examination longer than 72 hours.~~

2117 (g) An individual may not be held for involuntary  
2118 examination for more than 72 hours from the time of the  
2119 individual's arrival at the facility, except that this period  
2120 may be extended by 48 hours if a physician documents in the  
2121 clinical record that the individual has ongoing symptoms of  
2122 substance intoxication or substance withdrawal and the  
2123 individual would likely experience significant clinical benefit  
2124 from detoxification services. This determination must be made  
2125 based on a face-to-face examination conducted by the physician  
2126 no less than 48 hours and not more than 72 hours after the  
2127 individual's arrival at the facility. Based on the individual's



250728

2128 needs, one of the following actions must be taken within the  
2129 involuntary examination period:

2130 1. The individual shall be released after consultation with  
2131 the admitting professional and the approval of a psychiatrist,  
2132 psychiatric nurse, psychologist, or substance abuse  
2133 professional. However, if the examination is conducted in a  
2134 hospital, an emergency department physician may approve the  
2135 release or a psychiatric nurse performing within the framework  
2136 of an established protocol with a psychiatrist may also approve  
2137 the release, except when the involuntary examination has been  
2138 initiated by a psychiatrist and the release has not also been  
2139 approved by the initiating psychiatrist. If the examination is  
2140 conducted in an addictions receiving facility or detoxification  
2141 facility, a physician or substance abuse professional may  
2142 approve the release. The professional approving the release must  
2143 have personally conducted the involuntary examination;

2144 2. The individual shall be asked to provide express and  
2145 informed consent for voluntary admission if a physician or  
2146 psychologist has determined that the individual is competent to  
2147 consent to treatment; or

2148 3. A petition for involuntary placement shall be completed  
2149 and filed in the circuit court by the receiving facility  
2150 administrator if involuntary outpatient or inpatient placement  
2151 is deemed necessary. If the 72-hour period ends on a weekend or  
2152 legal holiday, the petition must be filed by the next working  
2153 day. If inpatient placement is deemed necessary, the least  
2154 restrictive treatment consistent with the optimum improvement of  
2155 the individual's condition must be made available.

2156 (h) An individual released from a receiving or treatment



250728

2157 facility on a voluntary or involuntary basis who is currently  
2158 charged with a crime shall be returned to the custody of law  
2159 enforcement, unless the individual has been released from law  
2160 enforcement custody by posting of a bond, by a pretrial  
2161 conditional release, or by other judicial release.

2162 (i) If an individual ~~A person~~ for whom an involuntary  
2163 examination has been initiated ~~who~~ is being evaluated or treated  
2164 at a hospital for an emergency medical condition specified in s.  
2165 395.002 the involuntary examination period ~~must be examined by a~~  
2166 ~~receiving facility within 72 hours. The 72-hour period begins~~  
2167 ~~when the~~ individual patient arrives at the hospital and ceases  
2168 ~~when a the attending~~ physician documents that the individual  
2169 ~~patient~~ has an emergency medical condition. The 72-hour period  
2170 resumes when the physician documents that the emergency medical  
2171 condition has stabilized or does not exist. ~~If the patient is~~  
2172 ~~examined at a hospital providing emergency medical services by a~~  
2173 ~~professional qualified to perform an involuntary examination and~~  
2174 ~~is found as a result of that examination not to meet the~~  
2175 ~~criteria for involuntary outpatient placement pursuant to s.~~  
2176 ~~394.4655(1) or involuntary inpatient placement pursuant to s.~~  
2177 ~~394.467(1), the patient may be offered voluntary placement, if~~  
2178 ~~appropriate, or released directly from the hospital providing~~  
2179 ~~emergency medical services. The finding by the professional that~~  
2180 ~~the patient has been examined and does not meet the criteria for~~  
2181 ~~involuntary inpatient placement or involuntary outpatient~~  
2182 ~~placement must be entered into the patient's clinical record.~~  
2183 ~~Nothing in this paragraph is intended to prevent A hospital~~  
2184 ~~providing emergency medical services~~ may transfer an individual  
2185 ~~from appropriately transferring a patient to another hospital~~



250728

2186 before ~~prior to~~ stabilization if, provided the requirements of  
2187 s. 395.1041(3)(c) are ~~have been~~ met. One of the following  
2188 actions must occur within 12 hours after a physician documents  
2189 that the individual's emergency medical condition has stabilized  
2190 or does not exist:

2191 ~~(h) One of the following must occur within 12 hours after~~  
2192 ~~the patient's attending physician documents that the patient's~~  
2193 ~~medical condition has stabilized or that an emergency medical~~  
2194 ~~condition does not exist:~~

2195 1. The individual shall be examined by a physician,  
2196 psychiatric nurse or psychologist and, if found not to meet the  
2197 criteria for involuntary examination pursuant to s. 394.463,  
2198 shall be released directly from the hospital providing the  
2199 emergency medical services. The results of the examination,  
2200 including the final disposition, shall be entered into the  
2201 clinical records; or

2202 2. The individual shall be transferred to a receiving  
2203 facility for examination if appropriate medical and mental  
2204 health treatment is available. However, the receiving facility  
2205 must be notified of the transfer within 2 hours after the  
2206 individual's condition has been stabilized or after  
2207 determination that an emergency medical condition does not  
2208 exist. The patient must be examined by a designated receiving  
2209 facility and released; or

2210 ~~2. The patient must be transferred to a designated~~  
2211 ~~receiving facility in which appropriate medical treatment is~~  
2212 ~~available. However, the receiving facility must be notified of~~  
2213 ~~the transfer within 2 hours after the patient's condition has~~  
2214 ~~been stabilized or after determination that an emergency medical~~



250728

2215 ~~condition does not exist.~~

2216 ~~(i) Within the 72-hour examination period or, if the 72~~  
2217 ~~hours ends on a weekend or holiday, no later than the next~~  
2218 ~~working day thereafter, one of the following actions must be~~  
2219 ~~taken, based on the individual needs of the patient:~~

2220 ~~1. The patient shall be released, unless he or she is~~  
2221 ~~charged with a crime, in which case the patient shall be~~  
2222 ~~returned to the custody of a law enforcement officer;~~

2223 ~~2. The patient shall be released, subject to the provisions~~  
2224 ~~of subparagraph 1., for voluntary outpatient treatment;~~

2225 ~~3. The patient, unless he or she is charged with a crime,~~  
2226 ~~shall be asked to give express and informed consent to placement~~  
2227 ~~as a voluntary patient, and, if such consent is given, the~~  
2228 ~~patient shall be admitted as a voluntary patient; or~~

2229 ~~4. A petition for involuntary placement shall be filed in~~  
2230 ~~the circuit court when outpatient or inpatient treatment is~~  
2231 ~~deemed necessary. When inpatient treatment is deemed necessary,~~  
2232 ~~the least restrictive treatment consistent with the optimum~~  
2233 ~~improvement of the patient's condition shall be made available.~~  
2234 ~~When a petition is to be filed for involuntary outpatient~~  
2235 ~~placement, it shall be filed by one of the petitioners specified~~  
2236 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~  
2237 ~~placement shall be filed by the facility administrator.~~

2238 (3) NOTICE OF RELEASE.—Notice of the release shall be given  
2239 to the individual's patient's guardian, health care surrogate or  
2240 proxy, or representative, to any person who executed a  
2241 certificate admitting the individual patient to the receiving  
2242 facility, and to any court that ~~which~~ ordered the individual's  
2243 examination patient's evaluation.



250728

2244 Section 18. Effective July 1, 2016, section 394.4655,  
2245 Florida Statutes, is amended to read:  
2246 394.4655 Involuntary outpatient placement.—  
2247 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT PLACEMENT.—An  
2248 individual ~~A person~~ may be ordered to involuntary outpatient  
2249 placement upon a finding of the court ~~that~~ by clear and  
2250 convincing evidence that:  
2251 (a) The individual is an adult ~~person is 18 years of age or~~  
2252 ~~older~~;  
2253 (b) The individual ~~person~~ has a mental illness or substance  
2254 abuse impairment;  
2255 (c) The individual ~~person~~ is unlikely to survive safely in  
2256 the community without supervision, based on a clinical  
2257 determination;  
2258 (d) The individual ~~person~~ has a history of lack of  
2259 compliance with treatment for mental illness or substance abuse  
2260 impairment;  
2261 (e) The individual ~~person~~ has:  
2262 1. Within ~~At least twice within~~ the immediately preceding  
2263 36 months, been involuntarily admitted to a receiving or  
2264 treatment facility ~~as defined in s. 394.455~~, or has received  
2265 mental health or substance abuse services in a forensic or  
2266 correctional facility. The 36-month period does not include any  
2267 period during which the individual ~~person~~ was admitted or  
2268 incarcerated; or  
2269 2. Engaged in one or more acts of serious violent behavior  
2270 toward self or others, or attempts at serious bodily harm to  
2271 himself or herself or others, within the preceding 36 months;  
2272 (f) Due to ~~The person is, as a result of~~ his or her mental



250728

2273 illness or substance abuse impairment, the individual is  
2274 unlikely to voluntarily participate in the recommended treatment  
2275 plan and ~~either he or she~~ has refused voluntary placement for  
2276 treatment after sufficient and conscientious explanation and  
2277 disclosure of the purpose of placement for treatment or ~~he or~~  
2278 ~~she~~ is unable to determine for himself or herself whether  
2279 placement is necessary;

2280 (g) In view of the individual's ~~person's~~ treatment history  
2281 and current behavior, the individual ~~person~~ is in need of  
2282 involuntary outpatient placement in order to prevent a relapse  
2283 or deterioration that would be likely to result in serious  
2284 bodily harm to self ~~himself or herself~~ or others, or a  
2285 substantial harm to his or her well-being as set forth in s.  
2286 394.463(1);

2287 (h) It is likely that the individual ~~person~~ will benefit  
2288 from involuntary outpatient placement; and

2289 (i) All available, less restrictive alternatives that ~~would~~  
2290 offer an opportunity for improvement of his or her condition  
2291 have been judged to be inappropriate or unavailable.

2292 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

2293 (a)~~1.~~ An individual ~~A patient~~ who is being recommended for  
2294 involuntary outpatient placement by the administrator of the  
2295 receiving facility where he or she ~~the patient~~ has been examined  
2296 may be retained by the facility after adherence to the notice  
2297 procedures provided in s. 394.4599.

2298 1. The recommendation must be supported by the opinion of a  
2299 psychiatrist and the second opinion of a ~~clinical~~ psychologist  
2300 or another psychiatrist, both of whom have personally examined  
2301 the individual ~~patient~~ within the preceding 72 hours, that the





250728

2302 criteria for involuntary outpatient placement are met. However,  
2303 in a county having a population of fewer than 50,000, if the  
2304 administrator certifies that a psychiatrist or clinical  
2305 psychologist is not available to provide the second opinion, the  
2306 second opinion may be provided by a ~~licensed~~ physician who has  
2307 postgraduate training and experience in diagnosis and treatment  
2308 of mental and nervous disorders or by a psychiatric nurse. Any  
2309 second opinion authorized in this subparagraph may be conducted  
2310 through a face-to-face examination, in person or by electronic  
2311 means. Such recommendation must be entered on an involuntary  
2312 outpatient placement certificate that authorizes the receiving  
2313 facility to retain the individual ~~patient~~ pending completion of  
2314 a hearing. The certificate shall be made a part of the patient's  
2315 clinical record.

2316 2. If the individual ~~patient~~ has been stabilized and no  
2317 longer meets the criteria for involuntary examination pursuant  
2318 to s. 394.463(1), he or she ~~the patient~~ must be released from  
2319 the receiving facility while awaiting the hearing for  
2320 involuntary outpatient placement.

2321 3. Before filing a petition for involuntary outpatient  
2322 treatment, the administrator of the ~~a~~ receiving facility or a  
2323 designated department representative must identify the service  
2324 provider that will have primary responsibility for service  
2325 provision under an order for involuntary outpatient placement,  
2326 unless the individual ~~person~~ is otherwise participating in  
2327 outpatient psychiatric treatment and is not in need of public  
2328 financing for that treatment, in which case the individual, if  
2329 eligible, may be ordered to involuntary treatment pursuant to  
2330 the existing psychiatric treatment relationship.



250728

2331            ~~4.3.~~ The service provider shall prepare a written proposed  
2332 treatment plan in consultation with the individual being held  
2333 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if  
2334 appointed, for the court's consideration for inclusion in the  
2335 involuntary outpatient placement order. The service provider  
2336 shall ~~also~~ provide a copy of the proposed treatment plan to the  
2337 individual patient and the administrator of the receiving  
2338 facility. The treatment plan must specify the nature and extent  
2339 of the individual's ~~patient's~~ mental illness or substance abuse  
2340 impairment, address the reduction of symptoms that necessitate  
2341 involuntary outpatient placement, and include measurable goals  
2342 and objectives for the services and treatment that are provided  
2343 to treat the individual's ~~person's~~ mental illness or substance  
2344 abuse impairment and assist the individual ~~person~~ in living and  
2345 functioning in the community or to prevent a relapse or  
2346 deterioration. Service providers may select and supervise other  
2347 providers ~~individuals~~ to implement specific aspects of the  
2348 treatment plan. The services in the treatment plan must be  
2349 deemed clinically appropriate by a physician, ~~clinical~~  
2350 psychologist, psychiatric nurse, mental health counselor,  
2351 marriage and family therapist, or clinical social worker who  
2352 consults with, or is employed or contracted by, the service  
2353 provider. The service provider must certify to the court in the  
2354 proposed treatment plan whether sufficient services for  
2355 improvement and stabilization are currently available and  
2356 whether the service provider agrees to provide those services.  
2357 If the service provider certifies that the services in the  
2358 proposed treatment plan are not available, the petitioner may  
2359 not file the petition.



250728

2360 (b) If an individual ~~a patient~~ in involuntary inpatient  
2361 placement meets the criteria for involuntary outpatient  
2362 placement, the administrator of the treatment facility may,  
2363 before the expiration of the period during which the treatment  
2364 facility is authorized to retain the individual ~~patient~~,  
2365 recommend involuntary outpatient placement.

2366 1. The recommendation must be supported by the opinion of a  
2367 psychiatrist and the second opinion of a ~~clinical~~ psychologist  
2368 or another psychiatrist, both of whom have personally examined  
2369 the individual ~~patient~~ within the preceding 72 hours, that the  
2370 criteria for involuntary outpatient placement are met. However,  
2371 in a county having a population of fewer than 50,000, if the  
2372 administrator certifies that a psychiatrist or ~~clinical~~  
2373 psychologist is not available to provide the second opinion, the  
2374 second opinion may be provided by a licensed physician who has  
2375 postgraduate training and experience in diagnosis and treatment  
2376 of mental and nervous disorders or by a psychiatric nurse. Any  
2377 second opinion authorized in this subparagraph may be conducted  
2378 through a face-to-face examination, in person or by electronic  
2379 means. Such recommendation must be entered on an involuntary  
2380 outpatient placement certificate, and the certificate must be  
2381 made a part of the individual's ~~patient's~~ clinical record.

2382 ~~2.(c)1.~~ The administrator of the treatment facility shall  
2383 provide a copy of the involuntary outpatient placement  
2384 certificate and a copy of the state mental health discharge form  
2385 to a department representative in the county where the  
2386 individual ~~patient~~ will be residing. ~~For persons who are leaving~~  
2387 ~~a state mental health treatment facility, the petition for~~  
2388 ~~involuntary outpatient placement must be filed in the county~~



250728

2389 ~~where the patient will be residing.~~

2390       ~~3.2.~~ The service provider that will have primary  
2391 responsibility for service provision shall be identified by the  
2392 designated department representative prior to the order for  
2393 involuntary outpatient placement and must, before ~~prior to~~  
2394 filing a petition for involuntary outpatient placement, certify  
2395 to the court whether the services recommended in the  
2396 individual's ~~patient's~~ discharge plan are available in the local  
2397 community and whether the service provider agrees to provide  
2398 those services. The service provider must develop with the  
2399 individual ~~patient~~, or the patient's guardian advocate, if one  
2400 is appointed, a treatment or service plan that addresses the  
2401 needs identified in the discharge plan. The plan must be deemed  
2402 to be clinically appropriate by a physician, ~~elinical~~  
2403 psychologist, psychiatric nurse, mental health counselor,  
2404 marriage and family therapist, or clinical social worker, ~~as~~  
2405 ~~defined in this chapter~~, who consults with, or is employed or  
2406 contracted by, the service provider.

2407       ~~3. If the service provider certifies that the services in~~  
2408 ~~the proposed treatment or service plan are not available, the~~  
2409 ~~petitioner may not file the petition.~~

2410       (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

2411       (a) A petition for involuntary outpatient placement may be  
2412 filed by:

2413       1. The administrator of a mental health receiving facility,  
2414 an addictions receiving facility, or a detoxification facility;

2415 or

2416       2. The administrator of a treatment facility.

2417       (b) Each required criterion for involuntary outpatient



250728

2418 placement must be alleged and substantiated in the petition for  
2419 involuntary outpatient placement. A copy of the certificate  
2420 recommending involuntary outpatient placement completed by a  
2421 qualified professional specified in subsection (2) must be  
2422 attached to the petition. A copy of the proposed treatment plan  
2423 must be attached to the petition. Before the petition is filed,  
2424 the service provider shall certify that the services in the  
2425 proposed treatment plan are available. If the necessary services  
2426 are not available in the patient's local community where the  
2427 individual will reside ~~to respond to the person's individual~~  
2428 ~~needs~~, the petition may not be filed.

2429 (c) A ~~The~~ petition for involuntary outpatient placement  
2430 must be filed in the county where the individual who is the  
2431 subject of the petition ~~patient~~ is located, unless the  
2432 individual ~~patient~~ is being placed from a state treatment  
2433 facility, in which case the petition must be filed in the county  
2434 where the individual ~~patient~~ will reside. When the petition is  
2435 ~~has been~~ filed, the clerk of the court shall provide copies of  
2436 the petition and the proposed treatment plan to the department,  
2437 the individual ~~patient~~, the individual's ~~patient's~~ guardian,  
2438 guardian advocate, health care surrogate or proxy, or  
2439 representative, the state attorney, and the public defender or  
2440 the individual's ~~patient's~~ private counsel. A fee may not be  
2441 charged for filing a petition under this subsection.

2442 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day  
2443 after ~~the~~ filing of a petition for involuntary outpatient  
2444 placement, the court shall appoint the public defender to  
2445 represent the individual ~~person~~ who is the subject of the  
2446 petition, unless the individual ~~person~~ is otherwise represented



250728

2447 by counsel. The clerk of the court shall immediately notify the  
2448 public defender of the appointment. The public defender shall  
2449 represent the individual ~~person~~ until the petition is dismissed,  
2450 the court order expires, or the individual ~~patient~~ is discharged  
2451 from involuntary outpatient placement. An attorney who  
2452 represents the individual ~~patient~~ shall have access to the  
2453 individual ~~patient~~, witnesses, and records relevant to the  
2454 presentation of the individual's ~~patient's~~ case and shall  
2455 represent the interests of the individual ~~patient~~, regardless of  
2456 the source of payment to the attorney. An attorney representing  
2457 an individual in proceedings under this part shall advocate the  
2458 individual's expressed desires and must be present and actively  
2459 participate in all hearings on involuntary placement. If the  
2460 individual is unable or unwilling to express his or her desires  
2461 to the attorney, the attorney shall proceed as though the  
2462 individual expressed a desire for liberty, opposition to  
2463 involuntary placement and, if placement is ordered, a preference  
2464 for the least restrictive treatment possible.

2465 (5) CONTINUANCE OF HEARING.—The patient is entitled, with  
2466 the concurrence of the patient's counsel, to at least one  
2467 continuance of the hearing. The continuance shall be for a  
2468 period of up to 4 weeks.

2469 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

2470 (a) ~~1.~~ The court shall hold the hearing on involuntary  
2471 outpatient placement within 5 court working days after the  
2472 filing of the petition, unless a continuance is granted. The  
2473 hearing shall be held in the county where the petition is filed,  
2474 ~~shall~~ be as convenient to the individual who is the subject of  
2475 the petition ~~patient~~ as is consistent with orderly procedure,



250728

2476 and ~~shall~~ be conducted in physical settings not likely to be  
2477 injurious to the individual's patient's condition. If the court  
2478 finds that the individual's patient's attendance at the hearing  
2479 is not consistent with the best interests of the individual  
2480 patient and if the individual's patient's counsel does not  
2481 object, the court may waive the presence of the individual  
2482 patient from all or any portion of the hearing. The state  
2483 attorney for the circuit in which the individual patient is  
2484 located shall represent the state, rather than the petitioner,  
2485 as the real party in interest in the proceeding. The state  
2486 attorney shall have access to the individual's clinical record  
2487 and witnesses and shall independently evaluate and confirm the  
2488 allegations set forth in the petition for involuntary placement.  
2489 If the allegations are substantiated, the state attorney shall  
2490 prosecute the petition. If the allegations are not  
2491 substantiated, the state attorney shall withdraw the petition.

2492 (b)2- The court may appoint a magistrate master to preside  
2493 at the hearing. One of the professionals who executed the  
2494 involuntary outpatient placement certificate shall be a witness.  
2495 The individual who is the subject of the petition patient and  
2496 his or her the patient's guardian, guardian advocate, health  
2497 care surrogate or proxy, or representative shall be informed by  
2498 the court of the right to an independent expert examination. If  
2499 the individual patient cannot afford such an examination, the  
2500 court shall provide ~~for~~ one. The independent expert's report is  
2501 ~~shall be~~ confidential and not discoverable, unless the expert is  
2502 ~~to be~~ called as a witness for the individual patient at the  
2503 hearing. The court shall allow testimony from persons  
2504 ~~individuals,~~ including family members, deemed by the court to be



250728

2505 relevant ~~under state law~~, regarding the individual's ~~person's~~  
2506 prior history and how that ~~prior~~ history relates to the  
2507 individual's ~~person's~~ current condition. The testimony in the  
2508 hearing must be ~~given~~ under oath, and the proceedings must be  
2509 recorded. The individual ~~patient~~ may refuse to testify at the  
2510 hearing.

2511 (c) The court shall consider testimony and evidence  
2512 regarding the competence of the individual being held to consent  
2513 to treatment. If the court finds that the individual is  
2514 incompetent to consent, it shall appoint a guardian advocate as  
2515 provided in s. 394.4598.

2516 (7) COURT ORDER.-

2517 (a) ~~(b) 1.~~ If the court concludes that the individual who is  
2518 the subject of the petition ~~patient~~ meets the criteria for  
2519 involuntary outpatient placement under ~~pursuant to~~ subsection  
2520 (1), the court shall issue an order for involuntary outpatient  
2521 placement. The court order may ~~shall~~ be for placement for a  
2522 ~~period of~~ up to 6 months. The order must specify the nature and  
2523 extent of the individual's ~~patient's~~ mental illness or substance  
2524 abuse impairment. The court order ~~of the court~~ and the treatment  
2525 plan must ~~shall~~ be made part of the individual's ~~patient's~~  
2526 clinical record. The service provider shall discharge an  
2527 individual ~~a patient~~ from involuntary outpatient placement when  
2528 the order expires or any time the individual ~~patient~~ no longer  
2529 meets the criteria for involuntary placement. Upon discharge,  
2530 the service provider shall send a certificate of discharge to  
2531 the court.

2532 (b) ~~2.~~ The court may not order the department or the service  
2533 provider to provide services if the program or service is not





250728

2534 available in the ~~patient's~~ local community of the individual  
2535 being served, if there is no space available in the program or  
2536 service for the individual patient, or if funding is not  
2537 available for the program or service. A copy of the order must  
2538 be sent to the Agency for Health Care Administration by the  
2539 service provider within 1 working day after it is received from  
2540 the court. After the placement order is issued, the service  
2541 provider and the individual patient may modify ~~provisions of~~ the  
2542 treatment plan. For any material modification of the treatment  
2543 plan to which the individual patient or the individual's  
2544 ~~patient's~~ guardian advocate, if appointed, does agree, the  
2545 service provider shall send notice of the modification to the  
2546 court. Any material modifications of the treatment plan which  
2547 are contested by the individual patient or the individual's  
2548 ~~patient's~~ guardian advocate, if appointed, must be approved or  
2549 disapproved by the court consistent with the requirements of  
2550 subsection (2).

2551 (c)3- If, in the clinical judgment of a physician, the  
2552 individual being served patient has failed or has refused to  
2553 comply with the treatment ordered by the court, and, in the  
2554 clinical judgment of the physician, efforts were made to solicit  
2555 compliance and the individual patient may meet the criteria for  
2556 involuntary examination, the individual ~~a person~~ may be brought  
2557 to a receiving facility pursuant to s. 394.463 for involuntary  
2558 examination. If, after examination, the individual patient does  
2559 not meet the criteria for involuntary inpatient placement  
2560 pursuant to s. 394.467, the individual patient must be  
2561 discharged from the receiving facility. The involuntary  
2562 outpatient placement order remains ~~shall remain~~ in effect unless



250728

2563 the service provider determines that the individual patient no  
2564 longer meets the criteria for involuntary outpatient placement  
2565 or until the order expires. The service provider must determine  
2566 whether modifications should be made to the existing treatment  
2567 plan and must attempt to continue to engage the individual  
2568 ~~patient~~ in treatment. For any material modification of the  
2569 treatment plan to which the individual patient or the  
2570 individual's patient's guardian advocate, if appointed, agrees  
2571 ~~does agree~~, the service provider shall send notice of the  
2572 modification to the court. Any material modifications of the  
2573 treatment plan which are contested by the individual patient or  
2574 the individual's patient's guardian advocate, if appointed, must  
2575 be approved or disapproved by the court consistent with the  
2576 requirements of subsection (2).

2577 (d) ~~(e)~~ If, at any time before the conclusion of the initial  
2578 hearing on involuntary outpatient placement, it appears to the  
2579 court that the individual person does not meet the criteria for  
2580 involuntary outpatient placement under this section but,  
2581 ~~instead~~, meets the criteria for involuntary inpatient placement,  
2582 the court may order the individual person admitted for  
2583 involuntary inpatient examination under s. 394.463. ~~If the~~  
2584 ~~person instead meets the criteria for involuntary assessment,~~  
2585 ~~protective custody, or involuntary admission pursuant to s.~~  
2586 ~~397.675, the court may order the person to be admitted for~~  
2587 ~~involuntary assessment for a period of 5 days pursuant to s.~~  
2588 ~~397.6811. Thereafter, all proceedings shall be governed by~~  
2589 ~~chapter 397.~~

2590 ~~(d) At the hearing on involuntary outpatient placement, the~~  
2591 ~~court shall consider testimony and evidence regarding the~~



250728

2592 ~~patient's competence to consent to treatment. If the court finds~~  
2593 ~~that the patient is incompetent to consent to treatment, it~~  
2594 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~  
2595 ~~The guardian advocate shall be appointed or discharged in~~  
2596 ~~accordance with s. 394.4598.~~

2597 (e) The administrator of the receiving facility, the  
2598 detoxification facility, or the designated department  
2599 representative shall provide a copy of the court order and  
2600 adequate documentation of an individual's ~~a patient's~~ mental  
2601 illness or substance abuse impairment to the service provider  
2602 for involuntary outpatient placement. Such documentation must  
2603 include any advance directives made by the individual ~~patient~~, a  
2604 psychiatric evaluation of the individual ~~patient~~, and any  
2605 evaluations of the individual ~~patient~~ performed by a ~~clinical~~  
2606 psychologist or a clinical social worker.

2607 ~~(8)(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT  
2608 PLACEMENT.—

2609 (a)~~1~~. If the individual ~~person~~ continues to meet the  
2610 criteria for involuntary outpatient placement, the service  
2611 provider shall, before the expiration of the period during which  
2612 the placement ~~treatment~~ is ordered ~~for the person~~, file in the  
2613 circuit court a petition for continued involuntary outpatient  
2614 placement.

2615 ~~1.2~~. The existing involuntary outpatient placement order  
2616 remains in effect until disposition of ~~on~~ the petition for  
2617 continued involuntary outpatient placement.

2618 ~~2.3~~. A certificate must ~~shall~~ be attached to the petition  
2619 which includes a statement from the individual's ~~person's~~  
2620 physician or ~~clinical~~ psychologist justifying the request, a



250728

2621 brief description of the individual's ~~patient's~~ treatment during  
2622 the time he or she was involuntarily placed, and a personalized  
2623 ~~an individualized~~ plan of continued treatment.

2624 3.4. The service provider shall develop the ~~individualized~~  
2625 plan of continued treatment in consultation with the individual  
2626 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if  
2627 appointed. When the petition has been filed, the clerk of the  
2628 court shall provide copies of the certificate and the  
2629 ~~individualized~~ plan of continued treatment to the department,  
2630 the individual ~~patient~~, the individual's ~~patient's~~ guardian  
2631 advocate, the state attorney, and the individual's ~~patient's~~  
2632 private counsel or the public defender.

2633 (b) Within 1 court working day after the filing of a  
2634 petition for continued involuntary outpatient placement, the  
2635 court shall appoint the public defender to represent the  
2636 individual ~~person~~ who is the subject of the petition, unless the  
2637 individual ~~person~~ is otherwise represented by counsel. The clerk  
2638 of the court shall immediately notify the public defender of  
2639 such appointment. The public defender shall represent the  
2640 individual ~~person~~ until the petition is dismissed, ~~or~~ the court  
2641 order expires, or the individual ~~patient~~ is discharged from  
2642 involuntary outpatient placement. Any attorney representing the  
2643 individual ~~patient~~ shall have access to the individual ~~patient~~,  
2644 witnesses, and records relevant to the presentation of the  
2645 individual's ~~patient's~~ case and shall represent the interests of  
2646 the individual ~~patient~~, regardless of the source of payment to  
2647 the attorney.

2648 (c) The court shall inform the individual who is the  
2649 subject of the petition and his or her guardian, guardian



250728

2650 advocate, health care surrogate or proxy, or representative of  
2651 the individual's right to an independent expert examination. If  
2652 the individual cannot afford such an examination, the court  
2653 shall provide one.

2654 (d)(e) Hearings on petitions for continued involuntary  
2655 outpatient placement are shall be before the circuit court. The  
2656 court may appoint a magistrate master to preside at the hearing.  
2657 The procedures for obtaining an order pursuant to this paragraph  
2658 must shall be in accordance with subsection (6), except that the  
2659 time period included in paragraph (1)(e) is not applicable in  
2660 determining the appropriateness of additional periods of  
2661 involuntary outpatient placement.

2662 (e)(d) Notice of the hearing shall be provided in  
2663 accordance with as set forth in s. 394.4599. The individual  
2664 being served patient and the individual's patient's attorney may  
2665 agree to a period of continued outpatient placement without a  
2666 court hearing.

2667 (f)(e) The same procedure shall be repeated before the  
2668 expiration of each additional period the individual being served  
2669 patient is placed in treatment.

2670 (g)(f) If the individual in involuntary outpatient  
2671 placement patient has previously been found incompetent to  
2672 consent to treatment, the court shall consider testimony and  
2673 evidence regarding the individual's patient's competence.  
2674 Section 394.4598 governs the discharge of the guardian advocate  
2675 if the individual's patient's competency to consent to treatment  
2676 has been restored.

2677  
2678 ===== T I T L E A M E N D M E N T =====



250728

2679 | And the title is amended as follows:  
2680 |       Between lines 2 and 3  
2681 | insert:  
2682 |       amending ss. 29.004, 39.001, 39.507, and 39.521, F.S.;  
2683 |       conforming provisions to changes made by the act;