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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/26/2015	.	
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The Committee on Appropriations (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2816 - 3242
and insert:

Section 17. Section 765.401, Florida Statutes, is transferred and renumbered as section 765.311, Florida Statutes.

Section 18. Section 765.404, Florida Statutes, is transferred and renumbered as section 765.312, Florida Statutes.

Section 19. The Division of Law Revision and Information is directed to rename part IV of chapter 765, Florida Statutes, as



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11 "Mental Health and Substance Abuse Advance Directives."
12 Section 20. Section 765.4015, Florida Statutes, is created
13 to read:
14 765.4015 Short title.—Sections 765.402-765.411 may be cited
15 as the "Jennifer Act."
16 Section 21. Section 765.402, Florida Statutes, is created
17 to read:
18 765.402 Legislative findings.—
19 (1) The Legislature recognizes that an individual with
20 capacity has the ability to control decisions relating to his or
21 her own mental health care or substance abuse treatment. The
22 Legislature finds that:
23 (a) Substance abuse and some mental illnesses cause
24 individuals to fluctuate between capacity and incapacity;
25 (b) During periods when an individual's capacity is
26 unclear, the individual may be unable to provide informed
27 consent necessary to access needed treatment;
28 (c) Early treatment may prevent an individual from becoming
29 so ill that involuntary treatment is necessary; and
30 (d) Individuals with substance abuse impairment or mental
31 illness need an established procedure to express their
32 instructions and preferences for treatment and provide advance
33 consent to or refusal of treatment. This procedure should be
34 less expensive and less restrictive than guardianship.
35 (2) The Legislature further recognizes that:
36 (a) A mental health or substance abuse treatment advance
37 directive must provide the individual with a full range of
38 choices.
39 (b) For a mental health or substance abuse directive to be



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40 an effective tool, individuals must be able to choose how they
41 want their directives to be applied, including the right of
42 revocation, during periods when they are incompetent to consent
43 to treatment.

44 (c) There must be a clear process so that treatment
45 providers can abide by an individual's treatment choices.

46 Section 22. Section 765.403, Florida Statutes, is created
47 to read:

48 765.403 Definitions.—As used in this section, the term:

49 (1) "Adult" means any individual who has attained the age
50 of majority or is an emancipated minor.

51 (2) "Capacity" means that an adult has not been found to be
52 incapacitated pursuant to s. 394.463.

53 (3) "Health care facility" means a hospital, nursing home,
54 hospice, home health agency, or health maintenance organization
55 licensed in this state, or any facility subject to part I of
56 chapter 394.

57 (4) "Incapacity" or "incompetent" means an adult who is:

58 (a) Unable to understand the nature, character, and
59 anticipated results of proposed treatment or alternatives or the
60 recognized serious possible risks, complications, and
61 anticipated benefits of treatments and alternatives, including
62 nontreatment;

63 (b) Physically or mentally unable to communicate a willful
64 and knowing decision about mental health care or substance abuse
65 treatment;

66 (c) Unable to communicate his or her understanding or
67 treatment decisions; or

68 (d) Determined incompetent pursuant to s. 394.463.



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69 (5) "Informed consent" means consent voluntarily given by a
70 person after a sufficient explanation and disclosure of the
71 subject matter involved to enable that person to have a general
72 understanding of the treatment or procedure and the medically
73 acceptable alternatives, including the substantial risks and
74 hazards inherent in the proposed treatment or procedures or
75 nontreatment, and to make knowing mental health care or
76 substance abuse treatment decisions without coercion or undue
77 influence.

78 (6) "Interested person" means, for the purposes of this
79 chapter, any person who may reasonably be expected to be
80 affected by the outcome of the particular proceeding involved,
81 including anyone interested in the welfare of an incapacitated
82 person.

83 (7) "Mental health or substance abuse treatment advance
84 directive" means a written document in which the principal makes
85 a declaration of instructions or preferences or appoints a
86 surrogate to make decisions on behalf of the principal regarding
87 the principal's mental health or substance abuse treatment, or
88 both.

89 (8) "Mental health professional" means a psychiatrist,
90 psychologist, psychiatric nurse, or social worker, and such
91 other mental health professionals licensed pursuant to chapter
92 458, chapter 464, chapter 490, or chapter 491.

93 (9) "Principal" means a competent adult who executes a
94 mental health or substance abuse treatment advance directive and
95 on whose behalf mental health care or substance abuse treatment
96 decisions are to be made.

97 (10) "Surrogate" means any competent adult expressly



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98 designated by a principal to make mental health care or
99 substance abuse treatment decisions on behalf of the principal
100 as set forth in the principal's mental health or substance abuse
101 treatment advance directive or self-binding arrangement as those
102 terms are defined in this part.

103 Section 23. Section 765.405, Florida Statutes, is created
104 to read:

105 765.405 Mental health or substance abuse treatment advance
106 directive; execution; allowable provisions.—

107 (1) An adult with capacity may execute a mental health or
108 substance abuse treatment advance directive.

109 (2) A directive executed in accordance with this section is
110 presumed to be valid. The inability to honor one or more
111 provisions of a directive does not affect the validity of the
112 remaining provisions.

113 (3) A directive may include any provision relating to
114 mental health or substance abuse treatment or the care of the
115 principal. Without limitation, a directive may include:

116 (a) The principal's preferences and instructions for mental
117 health or substance abuse treatment.

118 (b) Consent to specific types of mental health or substance
119 abuse treatment.

120 (c) Refusal to consent to specific types of mental health
121 or substance abuse treatment.

122 (d) Descriptions of situations that may cause the principal
123 to experience a mental health or substance abuse crisis.

124 (e) Suggested alternative responses that may supplement or
125 be in lieu of direct mental health or substance abuse treatment,
126 such as treatment approaches from other providers.



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127 (f) The principal's nomination of a guardian, limited
128 guardian, or guardian advocate as provided chapter 744.

129 (4) A directive may be combined with or be independent of a
130 nomination of a guardian, other durable power of attorney, or
131 other advance directive.

132 Section 24. Section 765.406, Florida Statutes, is created
133 to read:

134 765.406 Execution of a mental health or substance abuse
135 advance directive; effective date; expiration.-

136 (1) A directive must:

137 (a) Be in writing.

138 (b) Contain language that clearly indicates that the
139 principal intends to create a directive.

140 (c) Be dated and signed by the principal or, if the
141 principal is unable to sign, at the principal's direction in the
142 principal's presence.

143 (d) Be witnessed by two adults, each of whom must declare
144 that he or she personally knows the principal and was present
145 when the principal dated and signed the directive, and that the
146 principal did not appear to be incapacitated or acting under
147 fraud, undue influence, or duress. The person designated as the
148 surrogate may not act as a witness to the execution of the
149 document designating the mental health or substance abuse care
150 treatment surrogate. At least one person who acts as a witness
151 must be neither the principal's spouse nor his or her blood
152 relative.

153 (2) A directive is valid upon execution, but all or part of
154 the directive may take effect at a later date as designated by
155 the principal in the directive.



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156 (3) A directive may:
157 (a) Be revoked, in whole or in part, pursuant to s.
158 765.407; or
159 (b) Expire under its own terms.
160 (4) A directive does not or may not:
161 (a) Create an entitlement to mental health, substance
162 abuse, or medical treatment or supersede a determination of
163 medical necessity.
164 (b) Obligate any health care provider, professional person,
165 or health care facility to pay the costs associated with the
166 treatment requested.
167 (c) Obligate a health care provider, professional person,
168 or health care facility to be responsible for the nontreatment
169 or personal care of the principal or the principal's personal
170 affairs outside the scope of services the facility normally
171 provides.
172 (d) Replace or supersede any will or testamentary document
173 or supersede the provision of intestate succession.
174 (e) Be revoked by an incapacitated principal unless that
175 principal selected the option to permit revocation while
176 incapacitated at the time his or her directive was executed.
177 Section 25. Section 765.407, Florida Statutes, is created
178 to read:
179 765.407 Revocation; waiver.—
180 (1) A principal with capacity may, by written statement of
181 the principal or at the principal's direction in the principal's
182 presence, revoke a directive in whole or in part.
183 (2) The principal shall provide a copy of his or her
184 written statement of revocation to his or her agent, if any, and



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185 to each health care provider, professional person, or health
186 care facility that received a copy of the directive from the
187 principal.

188 (3) The written statement of revocation is effective as to
189 a health care provider, professional person, or health care
190 facility upon receipt. The professional person, health care
191 provider, or health care facility, or persons acting under their
192 direction, shall make the statement of revocation part of the
193 principal's medical record.

194 (4) A directive also may:

195 (a) Be revoked, in whole or in part, expressly or to the
196 extent of any inconsistency, by a subsequent directive; or

197 (b) Be superseded or revoked by a court order, including
198 any order entered in a criminal matter. The individual's family,
199 the health care facility, the attending physician, or any other
200 interested person who may be directly affected by the
201 surrogate's decision concerning any health care may seek
202 expedited judicial intervention pursuant to rule 5.900 of the
203 Florida Probate Rules, if that person believes:

204 1. The surrogate's decision is not in accord with the
205 individual's known desires;

206 2. The advance directive is ambiguous, or the individual
207 has changed his or her mind after execution of the advance
208 directive;

209 3. The surrogate was improperly designated or appointed, or
210 the designation of the surrogate is no longer effective or has
211 been revoked;

212 4. The surrogate has failed to discharge duties, or
213 incapacity or illness renders the surrogate incapable of



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214 discharging duties;

215 5. The surrogate has abused powers; or

216 6. The individual has sufficient capacity to make his or
217 her own health care decisions.

218 (5) A directive that would have otherwise expired but is
219 effective because the principal is incapacitated remains
220 effective until the principal is no longer incapacitated unless
221 the principal elected to be able to revoke while incapacitated
222 and has revoked the directive.

223 (6) When a principal with capacity consents to treatment
224 that differs from, or refuses treatment consented to in, his or
225 her directive, the consent or refusal constitutes a waiver of a
226 particular provision and does not constitute a revocation of the
227 provision or the directive unless that principal also revokes
228 the provision or directive.

229 Section 26. Section 765.410, Florida Statutes, is created
230 to read:

231 765.410 Immunity from liability; weight of proof;
232 presumption.-

233 (1) A health care facility, provider, or other person who
234 acts under the direction of a health care facility or provider
235 is not subject to criminal prosecution or civil liability, and
236 may not be deemed to have engaged in unprofessional conduct, as
237 a result of carrying out a mental health care or substance abuse
238 treatment decision made in accordance with this section. The
239 surrogate who makes a mental health care or substance abuse
240 treatment decision on a principal's behalf, pursuant to this
241 section, is not subject to criminal prosecution or civil
242 liability for such action.



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243 (2) This section applies unless it is shown by a
244 preponderance of the evidence that the person authorizing or
245 carrying out a mental health or substance abuse treatment
246 decision did not, in good faith, comply with this section.

247 Section 27. Section 765.411, Florida Statutes, is created
248 to read:

249 765.411 Recognition of mental health and substance abuse
250 treatment advance directive executed in another state.—A mental
251 health or substance abuse treatment advance directive executed
252 in another state in compliance with the law of that state is
253 validly executed for the purposes of this chapter.

254 Section 28. Section 916.185, Florida Statutes, is created
255 to read:

256 916.185 Forensic Hospital Diversion Pilot Program.—

257 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
258 that many jail inmates who have serious mental illnesses and who
259 are committed to state forensic mental health treatment
260 facilities for restoration of competency to proceed could be
261 served more effectively and at less cost in community-based
262 alternative programs. The Legislature further finds that many
263 individuals who have serious mental illnesses and who have been
264 discharged from state forensic mental health treatment
265 facilities could avoid recidivism in the criminal justice and
266 forensic mental health systems if they received specialized
267 treatment in the community. Therefore, it is the intent of the
268 Legislature to create the Forensic Hospital Diversion Pilot
269 Program to serve individuals who have mental illnesses or co-
270 occurring mental illnesses and substance use disorders and who
271 are admitted to or are at risk of entering state forensic mental



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272 health treatment facilities, prisons, jails, or state civil
273 mental health treatment facilities.

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

275 (a) "Best practices" means treatment services that
276 incorporate the most effective and acceptable interventions
277 available in the care and treatment of individuals who are
278 diagnosed as having mental illnesses or co-occurring mental
279 illnesses and substance use disorders.

280 (b) "Community forensic system" means the community mental
281 health and substance use forensic treatment system, including
282 the comprehensive set of services and supports provided to
283 individuals involved in or at risk of becoming involved in the
284 criminal justice system.

285 (c) "Evidence-based practices" means interventions and
286 strategies that, based on the best available empirical research,
287 demonstrate effective and efficient outcomes in the care and
288 treatment of individuals who are diagnosed as having mental
289 illnesses or co-occurring mental illnesses and substance use
290 disorders.

291 (3) CREATION.—There is created a Forensic Hospital
292 Diversion Pilot Program to provide, when appropriate,
293 competency-restoration and community-reintegration services in
294 locked residential treatment facilities, based on considerations
295 of public safety, the needs of the individual, and available
296 resources.

297 (a) The department shall implement a Forensic Hospital
298 Diversion Pilot Program in Alachua, Escambia, Hillsborough, and
299 Miami-Dade Counties, in conjunction with the Eighth Judicial
300 Circuit, the First Judicial Circuit, the Thirteenth Judicial



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301 Circuit, and the Eleventh Judicial Circuit, respectively, which
302 shall be modeled after the Miami-Dade Forensic Alternative
303 Center, taking into account local needs and subject to the
304 availability of local resources.

305 (b) In creating and implementing the program, the
306 department shall include a comprehensive continuum of care and
307 services which uses evidence-based practices and best practices
308 to treat individuals who have mental health and co-occurring
309 substance use disorders.

310 (c) The department and the respective judicial circuits
311 shall implement this section within available resources. State
312 funding may be made available through a specific appropriation.

313 (4) ELIGIBILITY.—Participation in the Forensic Hospital
314 Diversion Pilot Program is limited to individuals who:

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

316 (b) Are charged with a felony of the second degree or a
317 felony of the third degree;

318 (c) Do not have a significant history of violent criminal
319 offenses;

320 (d) Have been adjudicated incompetent to proceed to trial
321 or not guilty by reason of insanity under this part;

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

324 (f) Would be admitted to a state mental health treatment
325 facility if not for the availability of the Forensic Hospital
326 Diversion Pilot Program.

327 (5) TRAINING.—The Legislature encourages the Florida
328 Supreme Court, in consultation and cooperation with the Task
329 Force on Substance Abuse and Mental Health Issues in the Courts,



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330 to develop educational training on the community forensic system
331 for judges in the pilot program areas.

332 (6) RULEMAKING.—The department may adopt rules to
333 administer this section.

334 (7) REPORT.—The Office of Program Policy Analysis and
335 Government Accountability shall review and evaluate the Forensic
336 Hospital Diversion Pilot Program and submit a report to the
337 Governor, the President of the Senate, and the Speaker of the
338 House of Representatives by December 31, 2016. The report shall
339 examine the efficiency and cost-effectiveness of providing
340 forensic mental health services in secure, outpatient,
341 community-based settings. In addition, the report shall examine
342 the impact of the Forensic Hospital Diversion Pilot Program on
343 public health and safety.

344 Section 29. Paragraph (a) of subsection (3) of section
345 39.407, Florida Statutes, is amended to read:

346 39.407 Medical, psychiatric, and psychological examination
347 and treatment of child; physical, mental, or substance abuse
348 examination of person with or requesting child custody.—

349 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
350 or paragraph (e), before the department provides psychotropic
351 medications to a child in its custody, the prescribing physician
352 shall attempt to obtain express and informed consent, as defined
353 in s. 394.455(13) ~~s. 394.455(9)~~ and as described in s.
354 394.459(3) (a), from the child's parent or legal guardian. The
355 department must take steps necessary to facilitate the inclusion
356 of the parent in the child's consultation with the physician.
357 However, if the parental rights of the parent have been
358 terminated, the parent's location or identity is unknown or



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359 cannot reasonably be ascertained, or the parent declines to give
360 express and informed consent, the department may, after
361 consultation with the prescribing physician, seek court
362 authorization to provide the psychotropic medications to the
363 child. Unless parental rights have been terminated and if it is
364 possible to do so, the department shall continue to involve the
365 parent in the decisionmaking process regarding the provision of
366 psychotropic medications. If, at any time, a parent whose
367 parental rights have not been terminated provides express and
368 informed consent to the provision of a psychotropic medication,
369 the requirements of this section that the department seek court
370 authorization do not apply to that medication until such time as
371 the parent no longer consents.

372 2. Any time the department seeks a medical evaluation to
373 determine the need to initiate or continue a psychotropic
374 medication for a child, the department must provide to the
375 evaluating physician all pertinent medical information known to
376 the department concerning that child.

377 Section 30. Subsection (2) of section 394.4612, Florida
378 Statutes, is amended to read:

379 394.4612 Integrated adult mental health crisis
380 stabilization and addictions receiving facilities.—

381 (2) An integrated mental health crisis stabilization unit
382 and addictions receiving facility may provide services under
383 this section to adults who are 18 years of age or older and who
384 fall into one or more of the following categories:

385 (a) An adult meeting the requirements for voluntary
386 admission for mental health treatment under s. 394.4625.

387 (b) An adult meeting the criteria for involuntary



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388 examination for mental illness under s. 394.463.

389 ~~(c) An adult qualifying for voluntary admission for~~
390 ~~substance abuse treatment under s. 397.601.~~

391 ~~(d) An adult meeting the criteria for involuntary admission~~
392 ~~for substance abuse impairment under s. 397.675.~~

393 Section 31. Paragraphs (a) and (c) of subsection (3) of
394 section 394.495, Florida Statutes, are amended to read:

395 394.495 Child and adolescent mental health system of care;
396 programs and services.—

397 (3) Assessments must be performed by:

398 (a) A professional as defined in s. 394.455(6), (31), (34),
399 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24);~~

400 (c) A person who is under the direct supervision of a
401 professional as defined in s. 394.455(6), (31), (34), (35), or
402 (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional
403 licensed under chapter 491.

404

405 The department shall adopt by rule statewide standards for
406 mental health assessments, which must be based on current
407 relevant professional and accreditation standards.

408 Section 32. Subsection (6) of section 394.496, Florida
409 Statutes, is amended to read:

410 394.496 Service planning.—

411 (6) A professional as defined in s. 394.455(6), (31), (34),
412 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a

413 professional licensed under chapter 491 must be included among
414 those persons developing the services plan.

415 Section 33. Subsection (2) of section 394.499, Florida
416 Statutes, is amended to read:



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417 394.499 Integrated children's crisis stabilization
418 unit/juvenile addictions receiving facility services.—

419 (2) Children eligible to receive integrated children's
420 crisis stabilization unit/juvenile addictions receiving facility
421 services include:

422 (a) A person under 18 years of age for whom voluntary
423 application is made by his or her guardian, if such person is
424 found to show evidence of mental illness and to be suitable for
425 treatment pursuant to s. 394.4625. A person under 18 years of
426 age may be admitted for integrated facility services only after
427 a hearing to verify that the consent to admission is voluntary.

428 (b) A person under 18 years of age who may be taken to a
429 receiving facility for involuntary examination, if there is
430 reason to believe that he or she is mentally ill and because of
431 his or her mental illness, pursuant to s. 394.463:

432 1. Has refused voluntary examination after conscientious
433 explanation and disclosure of the purpose of the examination; or

434 2. Is unable to determine for himself or herself whether
435 examination is necessary; and

436 a. Without care or treatment is likely to suffer from
437 neglect or refuse to care for himself or herself; such neglect
438 or refusal poses a real and present threat of substantial harm
439 to his or her well-being; and it is not apparent that such harm
440 may be avoided through the help of willing family members or
441 friends or the provision of other services; or

442 b. There is a substantial likelihood that without care or
443 treatment he or she will cause serious bodily harm to himself or
444 herself or others in the near future, as evidenced by recent
445 behavior.



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446 ~~(c) A person under 18 years of age who wishes to enter~~
447 ~~treatment for substance abuse and applies to a service provider~~
448 ~~for voluntary admission, pursuant to s. 397.601.~~

449 ~~(d) A person under 18 years of age who meets the criteria~~
450 ~~for involuntary admission because there is good faith reason to~~
451 ~~believe the person is substance abuse impaired pursuant to s.~~
452 ~~397.675 and, because of such impairment:~~

453 ~~1. Has lost the power of self-control with respect to~~
454 ~~substance use; and~~

455 ~~2.a. Has inflicted, or threatened or attempted to inflict,~~
456 ~~or unless admitted is likely to inflict, physical harm on~~
457 ~~himself or herself or another; or~~

458 ~~b. Is in need of substance abuse services and, by reason of~~
459 ~~substance abuse impairment, his or her judgment has been so~~
460 ~~impaired that the person is incapable of appreciating his or her~~
461 ~~need for such services and of making a rational decision in~~
462 ~~regard thereto; however, mere refusal to receive such services~~
463 ~~does not constitute evidence of lack of judgment with respect to~~
464 ~~his or her need for such services.~~

465 ~~(c)(e)~~ A person under 18 years of age who meets the
466 criteria for examination or admission under paragraph (b) ~~or~~
467 ~~paragraph (d)~~ and has a coexisting mental health and substance
468 abuse disorder.

469 Section 34. Subsection (18) of section 394.67, Florida
470 Statutes, is amended to read:

471 394.67 Definitions.—As used in this part, the term:

472 (18) "Person who is experiencing an acute substance abuse
473 crisis" means a child, adolescent, or adult who is experiencing
474 a medical or emotional crisis because of the use of alcoholic



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475 beverages or any psychoactive or mood-altering substance. ~~The~~
476 ~~term includes an individual who meets the criteria for~~
477 ~~involuntary admission specified in s. 397.675.~~

478 Section 35. Subsection (2) of section 394.674, Florida
479 Statutes, is amended to read:

480 394.674 Eligibility for publicly funded substance abuse and
481 mental health services; fee collection requirements.—

482 (2) Crisis services, as defined in s. 394.67, must, within
483 the limitations of available state and local matching resources,
484 be available to each person who is eligible for services under
485 subsection (1), regardless of the person's ability to pay for
486 such services. A person who is experiencing a mental health
487 crisis and who does not meet the criteria for involuntary
488 examination under s. 394.463(1), ~~or a person who is experiencing~~
489 ~~a substance abuse crisis and who does not meet the involuntary~~
490 ~~admission criteria in s. 397.675,~~ must contribute to the cost of
491 his or her care and treatment pursuant to the sliding fee scale
492 developed under subsection (4), unless charging a fee is
493 contraindicated because of the crisis situation.

494 Section 36. Subsection (6) of section 394.9085, Florida
495 Statutes, is amended to read:

496 394.9085 Behavioral provider liability.—

497 (6) For purposes of this section, the terms "detoxification
498 services," "addictions receiving facility," and "receiving
499 facility" have the same meanings as those provided in ss.
500 397.311(18)(a)4., 397.311(18)(a)1., and 394.455(27) ~~394.455(26)~~,
501 respectively.

502 Section 37. Paragraph (d) of subsection (1) of section
503 395.0197, Florida Statutes, is amended to read:



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504 395.0197 Internal risk management program.—

505 (1) Every licensed facility shall, as a part of its
506 administrative functions, establish an internal risk management
507 program that includes all of the following components:

508 (d) A system for informing a patient or an individual
509 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~ that the
510 patient was the subject of an adverse incident, as defined in
511 subsection (5). Such notice shall be given by an appropriately
512 trained person designated by the licensed facility as soon as
513 practicable to allow the patient an opportunity to minimize
514 damage or injury.

515 Section 38. Section 395.1051, Florida Statutes, is amended
516 to read:

517 395.1051 Duty to notify patients.—An appropriately trained
518 person designated by each licensed facility shall inform each
519 patient, or an individual identified pursuant to s. 765.311(1)
520 ~~s. 765.401(1)~~, in person about adverse incidents that result in
521 serious harm to the patient. Notification of outcomes of care
522 that result in harm to the patient under this section shall not
523 constitute an acknowledgment or admission of liability, nor can
524 it be introduced as evidence.

525 Section 39. Subsection (11) and paragraph (a) of subsection
526 (18) of section 397.311, Florida Statutes, are amended to read:

527 397.311 Definitions.—As used in this chapter, except part
528 VIII, the term:

529 (11) "Habitual abuser" means a person who is brought to the
530 attention of law enforcement for being substance impaired, ~~who~~
531 ~~meets the criteria for involuntary admission in s. 397.675,~~ and
532 who has been taken into custody for such impairment three or



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533 more times during the preceding 12 months.

534 (18) Licensed service components include a comprehensive
535 continuum of accessible and quality substance abuse prevention,
536 intervention, and clinical treatment services, including the
537 following services:

538 (a) "Clinical treatment" means a professionally directed,
539 deliberate, and planned regimen of services and interventions
540 that are designed to reduce or eliminate the misuse of drugs and
541 alcohol and promote a healthy, drug-free lifestyle. As defined
542 by rule, "clinical treatment services" include, but are not
543 limited to, the following licensable service components:

544 1. "Addictions receiving facility" is a secure, acute care
545 facility that provides, at a minimum, detoxification and
546 stabilization services and is operated 24 hours per day, 7 days
547 per week; and is designated by the department to serve
548 individuals found to be substance use impaired ~~as described in~~
549 ~~s. 397.675~~ who meet the placement criteria for this component.

550 2. "Day or night treatment" is a service provided in a
551 nonresidential environment, with a structured schedule of
552 treatment and rehabilitative services.

553 3. "Day or night treatment with community housing" means a
554 program intended for individuals who can benefit from living
555 independently in peer community housing while participating in
556 treatment services for a minimum of 5 hours a day for a minimum
557 of 25 hours per week.

558 4. "Detoxification" is a service involving subacute care
559 that is provided on an inpatient or an outpatient basis to
560 assist individuals to withdraw from the physiological and
561 psychological effects of substance abuse and who meet the



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562 placement criteria for this component.

563 5. "Intensive inpatient treatment" includes a planned
564 regimen of evaluation, observation, medical monitoring, and
565 clinical protocols delivered through an interdisciplinary team
566 approach provided 24-hours-per-day ~~24 hours per day~~, 7-days-per-
567 week ~~7 days per week~~, in a highly structured, live-in
568 environment.

569 6. "Intensive outpatient treatment" is a service that
570 provides individual or group counseling in a more structured
571 environment, is of higher intensity and duration than outpatient
572 treatment, and is provided to individuals who meet the placement
573 criteria for this component.

574 7. "Medication-assisted treatment for opiate addiction" is
575 a service that uses methadone or other medication as authorized
576 by state and federal law, in combination with medical,
577 rehabilitative, and counseling services in the treatment of
578 individuals who are dependent on opioid drugs.

579 8. "Outpatient treatment" is a service that provides
580 individual, group, or family counseling by appointment during
581 scheduled operating hours for individuals who meet the placement
582 criteria for this component.

583 9. "Residential treatment" is a service provided in a
584 structured live-in environment within a nonhospital setting on a
585 24-hours-per-day, 7-days-per-week basis, and is intended for
586 individuals who meet the placement criteria for this component.

587 Section 40. Subsection (3) of section 397.431, Florida
588 Statutes, is amended to read:

589 397.431 Individual responsibility for cost of substance
590 abuse impairment services.-



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591 (3) The parent, legal guardian, or legal custodian of a
592 minor is not liable for payment for any substance abuse services
593 provided to the minor without parental consent ~~pursuant to s.~~
594 ~~397.601(4)~~, unless the parent, legal guardian, or legal
595 custodian participates or is ordered to participate in the
596 services, and only for the substance abuse services rendered. If
597 the minor is receiving services as a juvenile offender, the
598 obligation to pay is governed by the law relating to juvenile
599 offenders.

600 Section 41. Paragraph (b) of subsection (2) of section
601 397.702, Florida Statutes, is amended to read:

602 397.702 Authorization of local ordinances for treatment of
603 habitual abusers in licensed secure facilities.-

604 (2) Ordinances for the treatment of habitual abusers must
605 provide:

606 (b) That when seeking treatment of a habitual abuser, the
607 county or municipality, through an officer or agent specified in
608 the ordinance, must file with the court a petition which alleges
609 the following information about the alleged habitual abuser (the
610 respondent):

611 1. The name, address, age, and gender of the respondent.

612 2. The name of any spouse, adult child, other relative, or
613 guardian of the respondent, if known to the petitioner, and the
614 efforts, if any, by the petitioner, ~~if any~~, to ascertain this
615 information.

616 3. The name of the petitioner, the name of the person who
617 has physical custody of the respondent, and the current location
618 of the respondent.

619 4. That the respondent has been taken into custody for



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620 impairment in a public place, or has been arrested for an
621 offense committed while impaired, three or more times during the
622 preceding 12 months.

623 ~~5. Specific facts indicating that the respondent meets the~~
624 ~~criteria for involuntary admission in s. 397.675.~~

625 ~~5.6.~~ Whether the respondent was advised of his or her right
626 to be represented by counsel and to request that the court
627 appoint an attorney if he or she is unable to afford one, and
628 whether the respondent indicated to petitioner his or her desire
629 to have an attorney appointed.

630 Section 42. Paragraph (a) of subsection (1) of section
631 397.94, Florida Statutes, is amended to read:

632 397.94 Children's substance abuse services; information and
633 referral network.—

634 (1) The substate entity shall determine the most cost-
635 effective method for delivering this service and may select a
636 new provider or utilize an existing provider or providers with a
637 record of success in providing information and referral
638 services.

639 (a) The plan must provide assurances that the information
640 and referral network will include a resource directory that
641 contains information regarding the children's substance abuse
642 services available, including, but not limited to:

643 ~~1. Public and private resources by service component,~~
644 ~~including resources for involuntary admissions under s. 397.675.~~

645 ~~1.2.~~ Hours of operation and hours during which services are
646 provided.

647 ~~2.3.~~ Ages of persons served.

648 ~~3.4.~~ Description of services.



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649 ~~4.5.~~ Eligibility requirements.

650 ~~5.6.~~ Fee schedules.

651 Section 43. Section 402.3057, Florida Statutes, is amended
652 to read:

653 402.3057 Persons not required to be refingerprinted or
654 rescreened.—Any provision of law to the contrary
655 notwithstanding, human resource personnel who have been
656 fingerprinted or screened pursuant to chapters 393, 394, 397,
657 402, and 409, and teachers and noninstructional personnel who
658 have been fingerprinted pursuant to chapter 1012, who have not
659 been unemployed for more than 90 days thereafter, and who under
660 the penalty of perjury attest to the completion of such
661 fingerprinting or screening and to compliance with the
662 provisions of this section and the standards for good moral
663 character as contained in such provisions as ss. 110.1127(2)(c),
664 393.0655(1), ~~394.457(6)~~, 397.451, 402.305(2), and 409.175(6),
665 shall not be required to be refingerprinted or rescreened in
666 order to comply with any caretaker screening or fingerprinting
667 requirements.

668 Section 44. Section 409.1757, Florida Statutes, is amended
669 to read:

670 409.1757 Persons not required to be refingerprinted or
671 rescreened.—Any law to the contrary notwithstanding, human
672 resource personnel who have been fingerprinted or screened
673 pursuant to chapters 393, 394, 397, 402, and this chapter,
674 teachers who have been fingerprinted pursuant to chapter 1012,
675 and law enforcement officers who meet the requirements of s.
676 943.13, who have not been unemployed for more than 90 days
677 thereafter, and who under the penalty of perjury attest to the



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678 completion of such fingerprinting or screening and to compliance
679 with this section and the standards for good moral character as
680 contained in such provisions as ss. 110.1127(2)(c), 393.0655(1),
681 ~~394.457(6)~~, 397.451, 402.305(2), 409.175(6), and 943.13(7), are
682 not required to be refingerprinted or rescreened in order to
683 comply with any caretaker screening or fingerprinting
684 requirements.

685 Section 45. Paragraph (b) of subsection (1) of section
686 409.972, Florida Statutes, is amended to read:

687 409.972 Mandatory and voluntary enrollment.—

688 (1) The following Medicaid-eligible persons are exempt from
689 mandatory managed care enrollment required by s. 409.965, and
690 may voluntarily choose to participate in the managed medical
691 assistance program:

692 (b) Medicaid recipients residing in residential commitment
693 facilities operated through the Department of Juvenile Justice
694 or mental health treatment facilities as defined by s.
695 394.455(47) ~~s. 394.455(32)~~.

696 Section 46. Section 456.0575, Florida Statutes, is amended
697 to read:

698 456.0575 Duty to notify patients.—Every licensed health
699 care practitioner shall inform each patient, or an individual
700 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~, in person
701 about adverse incidents that result in serious harm to the
702 patient. Notification of outcomes of care that result in harm to
703 the patient under this section shall not constitute an
704 acknowledgment of admission of liability, nor can such
705 notifications be introduced as evidence.

706 Section 47. Subsection (7) of section 744.704, Florida



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707 Statutes, is amended to read:

708 744.704 Powers and duties.—

709 (7) A public guardian shall not commit a ward to a mental
710 health treatment facility, as defined in s. 394.455(47) ~~s.~~
711 ~~394.455(32)~~, without an involuntary placement proceeding as
712 provided by law.

713 Section 48. Subsection (15) of section 765.101, Florida
714 Statutes, is amended to read:

715 765.101 Definitions.—As used in this chapter:

716 (15) "Proxy" means a competent adult who has not been
717 expressly designated to make health care decisions for a
718 particular incapacitated individual, but who, nevertheless, is
719 authorized pursuant to s. 765.311 ~~s. 765.401~~ to make health care
720 decisions for such individual.

721 Section 49. Subsection (4) of section 765.104, Florida
722 Statutes, is amended to read:

723 765.104 Amendment or revocation.—

724 (4) Any patient for whom a medical proxy has been
725 recognized under s. 765.311 ~~s. 765.401~~ and for whom any previous
726 legal disability that precluded the patient's ability to consent
727 is removed may amend or revoke the recognition of the medical
728 proxy and any uncompleted decision made by that proxy. The
729 amendment or revocation takes effect when it is communicated to
730 the proxy, the health care provider, or the health care facility
731 in writing or, if communicated orally, in the presence of a
732 third person.

733

734 ===== T I T L E A M E N D M E N T =====

735 And the title is amended as follows:



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736 Delete lines 113 - 128
737 and insert:
738 of beds in crisis stabilization units; transferring
739 and renumbering s. 765.401, F.S.; transferring and
740 renumbering s. 765.404, F.S.; providing a directive to
741 the Division of Law Revision and Information; creating
742 s. 765.4015, F.S.; providing a short title; creating
743 s. 765.402, F.S.; providing legislative findings;
744 creating s. 765.403, F.S.; defining terms; creating s.
745 765.405, F.S.; authorizing an adult with capacity to
746 execute a mental health or substance abuse treatment
747 advance directive; providing a presumption of validity
748 if certain requirements are met; specifying provisions
749 that an advance directive may include; creating s.
750 765.406, F.S.; providing for execution of the mental
751 health or substance abuse treatment advance directive;
752 establishing requirements for a valid mental health or
753 substance abuse treatment advance directive; providing
754 that a mental health or substance abuse treatment
755 advance directive is valid upon execution even if a
756 part of the advance directive takes effect at a later
757 date; allowing a mental health or substance abuse
758 treatment advance directive to be revoked, in whole or
759 in part, or to expire under its own terms; specifying
760 that a mental health or substance abuse treatment
761 advance directive does not or may not serve specified
762 purposes; creating s. 765.407, F.S.; providing
763 circumstances under which a mental health or substance
764 abuse treatment advance directive may be revoked;



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765 providing circumstances under which a principal may
766 waive specific directive provisions without revoking
767 the advance directive; creating s. 765.410, F.S.;
768 prohibiting criminal prosecution of a health care
769 facility, provider, or surrogate who acts pursuant to
770 a mental health or substance abuse treatment decision;
771 creating s. 765.411, F.S.; providing for recognition
772 of a mental health and substance abuse treatment
773 advance directive executed in another state if it
774 complies with the laws of this state; creating s.
775 916.185, F.S.; providing legislative findings and
776 intent; defining terms; creating the Forensic Hospital
777 Diversion Pilot Program; requiring the Department of
778 Children and Families to implement a Forensic Hospital
779 Diversion Pilot Program in four specified judicial
780 circuits; providing eligibility criteria for
781 participation in the pilot program; providing
782 legislative intent concerning the training of judges;
783 authorizing the department to adopt rules; directing
784 the Office of Program Policy Analysis and Government
785 Accountability to submit a report to the Governor and
786 the Legislature; amending ss. 39.407, 394.4612,
787 394.495, 394.496, 394.499, 394.67, 394.674, 394.9085,
788 395.0197, 395.1051, 397.311, 397.431, 397.702, 397.94,
789 402.3057, 409.1757, 409.972, 456.0575, 744.704,
790 765.101, 765.104 and 790.065, F.S.; conforming cross-