

FOR CONSIDERATION By the Committee on Appropriations

576-02050B-15

20157070pb

1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 394.453, F.S.; adding substance abuse
4 impairment to a list of disorders for which the
5 Legislature intends to develop treatment programs;
6 providing that dignity and human rights are guaranteed
7 to all individuals who are admitted to substance abuse
8 facilities; amending s. 394.455, F.S.; defining and
9 redefining terms; amending s. 394.457, F.S.; adding
10 substance abuse services as a program focus for which
11 the Department of Children and Families is
12 responsible; removing the department's responsibility
13 for personnel standards; amending s. 394.4573, F.S.;
14 redefining terms; adding substance abuse care as an
15 element of the continuity of care management system
16 that the department must establish; removing duties
17 and measures of performance of the department
18 regarding a continuity of care management system;
19 amending s. 394.459, F.S.; extending a right to
20 dignity to all individuals held for examination or
21 admitted for mental health or substance abuse
22 treatment; providing procedural requirements that must
23 be followed to detain without consent an individual
24 who has a mental illness or substance abuse impairment
25 but who has not been charged with a criminal offense;
26 providing that individuals held for examination or
27 admitted for treatment at a facility have a right to
28 certain evaluation and treatment procedures; removing
29 provisions regarding express and informed consent for

576-02050B-15

20157070pb

30 medical procedures requiring the use of a general
31 anesthetic or electroconvulsive treatment; requiring
32 facilities to have written procedures for reporting
33 events that place individuals receiving services at
34 risk of harm; requiring service providers to provide
35 information concerning advance directives to
36 individuals receiving services; amending s. 394.4597,
37 F.S.; specifying certain persons who are prohibited
38 from being selected as an individual's representative;
39 providing certain rights for an individual's
40 representative; amending s. 394.4598, F.S.; specifying
41 certain persons who are prohibited from being
42 appointed as an individual's guardian advocate;
43 providing guidelines for decisions of guardian
44 advocates; amending s. 394.4599, F.S.; adding health
45 care surrogate or proxy to those individuals who have
46 responsibilities to act on behalf of an individual
47 admitted to a facility; amending s. 394.4615, F.S.;
48 adding a condition under which the clinical record of
49 an individual must be released to the state attorney;
50 amending s. 394.462, F.S.; providing that a person in
51 custody for a felony other than a forcible felony
52 shall be transported to the nearest receiving facility
53 for examination; providing that a law enforcement
54 officer may transport an individual meeting the
55 criteria for voluntary admission to a mental health
56 receiving facility, addictions receiving facility, or
57 detoxification facility at the individual's request;
58 amending s. 394.4625, F.S.; providing criteria for the

576-02050B-15

20157070pb

59 examination and treatment of an individual admitted to
60 a facility on voluntary status; providing criteria for
61 the release or discharge of an individual on voluntary
62 status; providing that an individual on voluntary
63 status who is released or discharged and is currently
64 charged with a crime shall be returned to the custody
65 of a law enforcement officer; providing procedures for
66 transferring an individual to voluntary status and
67 transferring an individual to involuntary status;
68 amending s. 394.463, F.S.; providing for the
69 involuntary examination of a person for a substance
70 abuse impairment; providing for the transportation of
71 an individual for an involuntary examination;
72 providing that a certificate for an involuntary
73 examination must contain certain information;
74 providing criteria and procedures for the release of
75 an individual held for involuntary examination from
76 receiving or treatment facilities; amending s.
77 394.4655, F.S.; adding substance abuse impairment as a
78 condition to which criteria for involuntary outpatient
79 placement apply; providing guidelines for an attorney
80 representing an individual subject to proceedings for
81 involuntary outpatient placement; providing guidelines
82 for the state attorney in prosecuting a petition for
83 involuntary placement; requiring the court to consider
84 certain information when determining whether to
85 appoint a guardian advocate for the individual;
86 requiring the court to inform the individual and his
87 or her representatives of the individual's right to an

576-02050B-15

20157070pb

88 independent expert examination with regard to
89 proceedings for involuntary outpatient placement;
90 amending s. 394.467, F.S.; adding substance abuse
91 impairment as a condition to which criteria for
92 involuntary inpatient placement apply; adding
93 addictions receiving facilities and detoxification
94 facilities as identified receiving facilities;
95 providing for first and second medical opinions in
96 proceedings for placement for treatment of substance
97 abuse impairment; providing guidelines for attorney
98 representation of an individual subject to proceedings
99 for involuntary inpatient placement; providing
100 guidelines for the state attorney in prosecuting a
101 petition for involuntary placement; setting standards
102 for the court to accept a waiver of the individual's
103 rights; requiring the court to consider certain
104 testimony regarding the individual's prior history in
105 proceedings; requiring the Division of Administrative
106 Hearings to inform the individual and his or her
107 representatives of the right to an independent expert
108 examination; amending s. 394.4672, F.S.; providing
109 authority of facilities of the United States
110 Department of Veterans Affairs to conduct certain
111 examinations and provide certain treatments; amending
112 s. 394.875, F.S.; removing a limitation on the amount
113 of beds in crisis stabilization units; creating s.
114 916.185; providing legislative findings and intent;
115 defining terms; creating the Forensic Hospital
116 Diversion Pilot Program; requiring the Department of

576-02050B-15

20157070pb

117 Children and Families to implement a Forensic Hospital
118 Diversion Pilot Program in four specified judicial
119 circuits; providing eligibility criteria for
120 participation in the pilot program; providing
121 legislative intent concerning the training of judges;
122 authorizing the department to adopt rules; directing
123 the Office of Program Policy Analysis and Government
124 Accountability to submit a report to the Governor and
125 the Legislature; amending ss. 39.407, 394.4612,
126 394.495, 394.496, 394.499, 394.67, 394.674, 394.9085,
127 397.311, 397.431, 397.702, 397.94, 402.3057, 409.1757,
128 409.972, 744.704, and 790.065, F.S.; conforming cross-
129 references; repealing ss. 397.601, 397.675, 397.6751,
130 397.6752, 397.6758, 397.6759, 397.677, 397.6771,
131 397.6772, 397.6773, 397.6774, 397.6775, 397.679,
132 397.6791, 397.6793, 397.6795, 397.6797, 397.6798,
133 397.6799, 397.681, 397.6811, 397.6814, 397.6815,
134 397.6818, 397.6819, 397.6821, 397.6822, 397.693,
135 397.695, 397.6951, 397.6955, 397.6957, 397.697,
136 397.6971, 397.6975, and 397.6977, F.S.; providing an
137 effective date.

138

139 Be It Enacted by the Legislature of the State of Florida:

140

141 Section 1. Section 394.453, Florida Statutes, is amended to
142 read:

143 394.453 Legislative intent.—It is the intent of the
144 Legislature to authorize and direct the Department of Children
145 and Families to evaluate, research, plan, and recommend to the

576-02050B-15

20157070pb

146 Governor and the Legislature programs designed to reduce the
147 occurrence, severity, duration, and disabling aspects of mental,
148 emotional, and behavioral disorders, and substance abuse
149 impairment. It is the intent of the Legislature that treatment
150 programs for such disorders shall include, but not be limited
151 to, comprehensive health, social, educational, and
152 rehabilitative services for individuals ~~to persons~~ requiring
153 intensive short-term and continued treatment in order to
154 encourage them to assume responsibility for their treatment and
155 recovery. It is intended that such individuals ~~persons~~ be
156 provided with emergency service and temporary detention for
157 evaluation if ~~when~~ required; that they be admitted to treatment
158 facilities if ~~on a voluntary basis when~~ extended or continuing
159 care is needed and unavailable in the community; that
160 involuntary placement be provided only if ~~when~~ expert evaluation
161 determines that it is necessary; that any involuntary treatment
162 or examination be accomplished in a setting that ~~which~~ is
163 clinically appropriate and most likely to facilitate the
164 individual's ~~person's~~ return to the community as soon as
165 possible; and that ~~individual~~ dignity and human rights be
166 guaranteed to all individuals ~~persons~~ who are admitted to mental
167 health and substance abuse treatment facilities or who are being
168 held under s. 394.463. It is the further intent of the
169 Legislature that the least restrictive means of intervention be
170 employed based on the individual's ~~individual~~ needs ~~of each~~
171 ~~person~~, within the scope of available services. It is the policy
172 of this state that the use of restraint and seclusion ~~on clients~~
173 is justified only as an emergency safety measure to be used in
174 response to imminent danger to the individual ~~client~~ or others.

576-02050B-15

20157070pb

175 It is, therefore, the intent of the Legislature to achieve an
176 ongoing reduction in the use of restraint and seclusion in
177 programs and facilities serving individuals ~~persons~~ with mental
178 illness or who have a substance abuse impairment.

179 Section 2. Section 394.455, Florida Statutes, is reordered
180 and amended to read:

181 394.455 Definitions.—As used in this part, unless the
182 context clearly requires otherwise, the term:

183 (1) "Addictions receiving facility" means a secure, acute
184 care facility that, at a minimum, provides detoxification and
185 stabilization services; is operated 24 hours per day, 7 days per
186 week; and is designated by the department to serve individuals
187 found to be substance abuse impaired as defined in subsection
188 (44) who qualify for services under this section.

189 (2)(1) "Administrator" means the chief administrative
190 officer of a receiving or treatment facility or his or her
191 designee.

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

195 (4) "Advanced registered nurse practitioner" means any
196 person licensed in this state to practice professional nursing
197 who is certified in advanced or specialized nursing practice
198 under s. 464.012.

199 (36)(2) "Clinical Psychologist" means a psychologist as
200 defined in s. 490.003(7) with 3 years of postdoctoral experience
201 in the practice of clinical psychology, inclusive of the
202 experience required for licensure, or a psychologist employed by
203 a facility operated by the United States Department of Veterans

576-02050B-15

20157070pb

204 Affairs that qualifies as a receiving or treatment facility
205 under this part.

206 (5)~~(3)~~ "Clinical record" means all parts of the record
207 required to be maintained and includes all medical records,
208 progress notes, charts, and admission and discharge data, and
209 all other information recorded by a facility staff which
210 pertains to an individual's ~~the patient's~~ hospitalization or
211 treatment.

212 (6)~~(4)~~ "Clinical social worker" means a person licensed as
213 a clinical social worker under s. 491.005 or s. 491.006 or a
214 person employed as a clinical social worker by a facility
215 operated by the United States Department of Veterans Affairs or
216 the United States Department of Defense under chapter 491.

217 (7)~~(5)~~ "Community facility" means a ~~any~~ community service
218 provider contracting with the department to furnish substance
219 abuse or mental health services under part IV of this chapter.

220 (8)~~(6)~~ "Community mental health center or clinic" means a
221 publicly funded, not-for-profit center that ~~which~~ contracts with
222 the department for the provision of inpatient, outpatient, day
223 treatment, or emergency services.

224 (9)~~(7)~~ "Court," unless otherwise specified, means the
225 circuit court.

226 (10)~~(8)~~ "Department" means the Department of Children and
227 Families.

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

230 (12) "Electronic means" means a form of telecommunication
231 that requires all parties to maintain visual as well as audio
232 communication.

576-02050B-15

20157070pb

233 ~~(13)(9)~~ "Express and informed consent" means consent
234 voluntarily given in writing, by a competent individual ~~person~~,
235 after sufficient explanation and disclosure of the subject
236 matter involved to enable the individual ~~person~~ to make a
237 knowing and willful decision without any element of force,
238 fraud, deceit, duress, or other form of constraint or coercion.

239 ~~(14)(10)~~ "Facility" means any hospital, community facility,
240 public or private facility, or receiving or treatment facility
241 providing for the evaluation, diagnosis, care, treatment,
242 training, or hospitalization of individuals ~~persons~~ who appear
243 to have ~~a mental illness~~ or who have been diagnosed as having a
244 mental illness or substance abuse impairment. The term
245 "Facility" does not include a ~~any~~ program or entity licensed
246 under ~~pursuant to~~ chapter 400 or chapter 429.

247 ~~(15)~~ "Governmental facility" means a facility owned,
248 operated, or administered by the Department of Corrections or
249 the United States Department of Veterans Affairs.

250 ~~(16)(11)~~ "Guardian" means the natural guardian of a minor,
251 or a person appointed by a court to act on behalf of a ward's
252 person if the ward is a minor or has been adjudicated
253 incapacitated.

254 ~~(17)(12)~~ "Guardian advocate" means a person appointed by a
255 court to make decisions regarding mental health or substance
256 abuse treatment on behalf of an individual ~~a patient~~ who has
257 been found incompetent to consent to treatment pursuant to this
258 part. ~~The guardian advocate may be granted specific additional~~
259 ~~powers by written order of the court, as provided in this part.~~

260 ~~(18)(13)~~ "Hospital" means a hospital ~~facility as defined in~~
261 ~~s. 395.002 and~~ licensed under chapter 395 and part II of chapter

576-02050B-15

20157070pb

262 408.

263 (19)~~(14)~~ "Incapacitated" means that an individual ~~a person~~
264 has been adjudicated incapacitated pursuant to part V of chapter
265 744 and a guardian of the person has been appointed.

266 (20)~~(15)~~ "Incompetent to consent to treatment" means that
267 an individual's ~~a person's~~ judgment is so affected by ~~his or her~~
268 mental illness, substance abuse impairment, or any medical or
269 organic cause, that he or she ~~the person~~ lacks the capacity to
270 make a well-reasoned, willful, and knowing decision concerning
271 his or her medical, ~~or~~ mental health, or substance abuse
272 treatment.

273 (21) "Involuntary examination" means an examination
274 performed under s. 394.463 to determine whether an individual
275 qualifies for involuntary outpatient placement under s. 394.4655
276 or involuntary inpatient placement under s. 394.467.

277 (22) "Involuntary placement" means involuntary outpatient
278 placement pursuant to s. 394.4655 or involuntary inpatient
279 placement in a receiving or treatment facility pursuant to s.
280 394.467.

281 (23)~~(16)~~ "Law enforcement officer" means a law enforcement
282 officer as defined in s. 943.10.

283 (24) "Marriage and family therapist" means a person
284 licensed to practice marriage and family therapy under s.
285 491.005 or s. 491.006 or a person employed as a marriage and
286 family therapist by a facility operated by the United States
287 Department of Veterans Affairs or the United States Department
288 of Defense.

289 (25) "Mental health counselor" means a person licensed to
290 practice mental health counseling under s. 491.005 or s. 491.006

576-02050B-15

20157070pb

291 or a person employed as a mental health counselor by a facility
292 operated by the United States Department of Veterans Affairs or
293 the United States Department of Defense.

294 (26)~~(17)~~ "Mental health overlay program" means a mobile
295 service that ~~which~~ provides an independent examination for
296 voluntary admission ~~admissions~~ and a range of supplemental
297 onsite services to an individual who has ~~persons with~~ a mental
298 illness in a residential setting such as a nursing home,
299 assisted living facility, adult family-care home, or
300 nonresidential setting such as an adult day care center.
301 Independent examinations provided ~~pursuant to this part~~ through
302 a mental health overlay program must ~~only~~ be provided only under
303 contract with the department ~~for this service~~ or must be
304 attached to a public receiving facility that is also a community
305 mental health center.

306 (28)~~(18)~~ "Mental illness" means an impairment of the mental
307 or emotional processes that exercise conscious control of one's
308 actions or of the ability to perceive or understand reality,
309 which impairment substantially interferes with the individual's
310 ~~person's~~ ability to meet the ordinary demands of living. For the
311 purposes of this part, the term does not include a developmental
312 disability as defined in chapter 393, intoxication, brain
313 injury, dementia, or conditions manifested only by antisocial
314 behavior or substance abuse impairment.

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

318 (30)~~(19)~~ "Mobile crisis response service" means a
319 nonresidential crisis service ~~attached to a public receiving~~

576-02050B-15

20157070pb

320 ~~facility and~~ available 24 hours a day, 7 days a week, ~~through~~
321 which provides immediate intensive assessments and
322 interventions, including screening for admission into a mental
323 health receiving facility, addictions receiving facility, or a
324 detoxification facility, ~~take place~~ for the purpose of
325 identifying appropriate treatment services.

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

328 ~~(31)-(21)~~ "Physician" means a medical practitioner licensed
329 under chapter 458 or chapter 459 ~~who has experience in the~~
330 ~~diagnosis and treatment of mental and nervous disorders or a~~
331 physician employed by a facility operated by the United States
332 Department of Veterans Affairs or the United States Department
333 of Defense ~~which qualifies as a receiving or treatment facility~~
334 ~~under this part.~~

335 (32) "Physician assistant" means a person licensed under
336 chapter 458 or chapter 459 who has experience in the diagnosis
337 and treatment of mental disorders or a person employed as a
338 physician assistant by a facility operated by the United States
339 Department of Veterans Affairs or the United States Department
340 of Defense.

341 ~~(33)-(22)~~ "Private facility" means any hospital or facility
342 operated by a for-profit or not-for-profit corporation or
343 association that provides mental health or substance abuse
344 services and is not a public facility.

345 ~~(34)-(23)~~ "Psychiatric nurse" means a registered nurse
346 licensed under part I of chapter 464 who has a master's degree
347 or a doctorate in psychiatric nursing and 2 years of post-
348 master's clinical experience under the supervision of a

576-02050B-15

20157070pb

349 physician or a person employed as a psychiatric nurse by a
350 facility operated by the United States Department of Veterans
351 Affairs or the United States Department of Defense.

352 ~~(35)-(24)~~ "Psychiatrist" means a medical practitioner
353 licensed under chapter 458 or chapter 459 ~~who has primarily~~
354 ~~diagnosed and treated mental and nervous disorders for at least~~
355 ~~a period of not less than 3 years, inclusive of psychiatric~~
356 residency, or a person employed as a psychiatrist by a facility
357 operated by the United States Department of Veterans Affairs or
358 the United States Department of Defense.

359 ~~(37)-(25)~~ "Public facility" means any facility that has
360 contracted with the department to provide mental health or
361 substance abuse services to all individuals ~~persons~~, regardless
362 of ~~their~~ ability to pay, and is receiving state funds for such
363 purpose.

364 ~~(27)-(26)~~ "Mental health receiving facility" means any
365 public or private facility designated by the department to
366 receive and hold individuals on involuntary status ~~involuntary~~
367 ~~patients under emergency conditions or~~ for psychiatric
368 evaluation and to provide ~~short-term~~ treatment. The term does
369 not include a county jail.

370 ~~(38)-(27)~~ "Representative" means a person selected pursuant
371 to s. 394.4597(2) ~~to receive notice of proceedings during the~~
372 ~~time a patient is held in or admitted to a receiving or~~
373 ~~treatment facility.~~

374 ~~(39)-(28)-(a)~~ "Restraint" means a physical device, method, or
375 drug used to control behavior.

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

576-02050B-15

20157070pb

378 adjacent to an ~~the~~ individual's body so that he or she cannot
379 easily remove the restraint and which restricts freedom of
380 movement or normal access to one's body.

381 (b) A drug used as a restraint is a medication used to
382 control an individual's ~~the person's~~ behavior or to restrict his
383 or her freedom of movement and is not part of the standard
384 treatment regimen for an individual having ~~of a person with a~~
385 diagnosed mental illness ~~who is a client of the department.~~
386 Physically holding an individual ~~a person~~ during a procedure to
387 forcibly administer psychotropic medication is a physical
388 restraint.

389 (c) Restraint does not include physical devices, such as
390 orthopedically prescribed appliances, surgical dressings and
391 bandages, supportive body bands, or other physical holding ~~when~~
392 necessary for routine physical examinations and tests; ~~or~~ for
393 purposes of orthopedic, surgical, or other similar medical
394 treatment; ~~when used~~ to provide support for the achievement of
395 functional body position or proper balance; or ~~when used~~ to
396 protect an individual ~~a person~~ from falling out of bed.

397 (40) "School psychologist" has the same meaning as in s.
398 490.003.

399 (41) ~~(29)~~ "Seclusion" means the physical segregation ~~of a~~
400 ~~person in any fashion~~ or involuntary isolation of an individual
401 ~~a person~~ in a room or area from which the individual ~~person~~ is
402 prevented from leaving. The prevention may be by physical
403 barrier or by a staff member who is acting in a manner, or who
404 is physically situated, so as to prevent the individual ~~person~~
405 from leaving the room or area. For purposes of this chapter, the
406 term does not mean isolation due to an individual's ~~a person's~~

576-02050B-15

20157070pb

407 medical condition or symptoms.

408 ~~(42)-(30)~~ "Secretary" means the Secretary of Children and
409 Families.

410 (43) "Service provider" means a mental health receiving
411 facility, any facility licensed under chapter 397, a treatment
412 facility, an entity under contract with the department to
413 provide mental health or substance abuse services, a community
414 mental health center or clinic, a psychologist, a clinical
415 social worker, a marriage and family therapist, a mental health
416 counselor, a physician, a psychiatrist, an advanced registered
417 nurse practitioner, or a psychiatric nurse.

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

423 (45) "Substance abuse qualified professional" has the same
424 meaning as in s. 397.311(26).

425 ~~(46)-(31)~~ "Transfer evaluation" means the process, as
426 approved by the ~~appropriate district office of the department,~~
427 in which an individual ~~whereby a person who is being considered~~
428 ~~for placement in a state treatment facility is first evaluated~~
429 ~~for appropriateness of admission to a treatment~~ the facility.
430 The transfer evaluation shall be conducted by the department, by
431 a ~~community-based~~ public receiving facility, or by another
432 service provider as authorized by the department or by a
433 community mental health center or clinic ~~if the public receiving~~
434 ~~facility is not a community mental health center or clinic.~~

435 ~~(47)-(32)~~ "Treatment facility" means a ~~any~~ state-owned,

576-02050B-15

20157070pb

436 state-operated, or state-supported hospital, center, or clinic
437 designated by the department for extended treatment and
438 hospitalization of individuals who have a mental illness, beyond
439 that provided ~~for~~ by a receiving facility or a, ~~of persons who~~
440 ~~have a mental illness, including facilities of the United States~~
441 ~~Government, and any private facility designated by the~~
442 department when rendering such services ~~to a person~~ pursuant to
443 ~~the provisions of~~ this part. Patients treated in facilities of
444 the United States Government shall be solely those whose care is
445 the responsibility of the United States Department of Veterans
446 Affairs.

447 ~~(33) "Service provider" means any public or private~~
448 ~~receiving facility, an entity under contract with the Department~~
449 ~~of Children and Families to provide mental health services, a~~
450 ~~clinical psychologist, a clinical social worker, a marriage and~~
451 ~~family therapist, a mental health counselor, a physician, a~~
452 ~~psychiatric nurse as defined in subsection (23), or a community~~
453 ~~mental health center or clinic as defined in this part.~~

454 ~~(34) "Involuntary examination" means an examination~~
455 ~~performed under s. 394.463 to determine if an individual~~
456 ~~qualifies for involuntary inpatient treatment under s.~~
457 ~~394.467(1) or involuntary outpatient treatment under s.~~
458 ~~394.4655(1).~~

459 ~~(35) "Involuntary placement" means either involuntary~~
460 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~
461 ~~inpatient treatment pursuant to s. 394.467.~~

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

464 ~~(37) "Mental health counselor" means a person licensed as a~~

576-02050B-15

20157070pb

465 ~~mental health counselor under chapter 491.~~

466 ~~(38) "Electronic means" means a form of telecommunication~~
467 ~~that requires all parties to maintain visual as well as audio~~
468 ~~communication.~~

469 Section 3. Section 394.457, Florida Statutes, is amended to
470 read:

471 394.457 Operation and administration.—

472 (1) ADMINISTRATION.—The Department of Children and Families
473 is designated the "Mental Health Authority" of Florida. The
474 department and the Agency for Health Care Administration shall
475 exercise executive and administrative supervision over all
476 ~~mental health~~ facilities, programs, and services.

477 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is
478 responsible for:

479 (a) The planning, evaluation, and implementation of a
480 complete and comprehensive statewide program of mental health
481 and substance abuse, including community services, receiving and
482 treatment facilities, child services, research, and training as
483 authorized and approved by the Legislature, based on the annual
484 program budget of the department. The department is also
485 responsible for the coordination of efforts with other
486 departments and divisions of the state government, county and
487 municipal governments, and private agencies concerned with and
488 providing mental health and substance abuse services. It is
489 responsible for establishing standards, providing technical
490 assistance, and supervising ~~exercising supervision of~~ mental
491 health and substance abuse programs of, and the treatment of
492 individuals ~~patients~~ at, community facilities, other facilities
493 serving individuals ~~for persons~~ who have a mental illness or

576-02050B-15

20157070pb

494 substance abuse impairment, and any agency or facility providing
495 services under ~~to patients pursuant to~~ this part.

496 (b) The publication and distribution of an information
497 handbook to facilitate understanding of this part, the policies
498 and procedures involved in the implementation of this part, and
499 the responsibilities of the various providers of services under
500 this part. It shall stimulate research by public and private
501 agencies, institutions of higher learning, and hospitals in the
502 interest of the elimination and amelioration of mental illness.

503 (3) POWER TO CONTRACT.—The department may contract to
504 provide, and be provided with, services and facilities in order
505 to carry out its responsibilities under this part with the
506 following agencies: public and private hospitals; receiving and
507 treatment facilities; clinics; laboratories; departments,
508 divisions, and other units of state government; the state
509 colleges and universities; the community colleges; private
510 colleges and universities; counties, municipalities, and any
511 other governmental unit, including facilities of the United
512 States Government; and any other public or private entity which
513 provides or needs facilities or services. Baker Act funds for
514 community inpatient, crisis stabilization, short-term
515 residential treatment, and screening services must be allocated
516 to each county pursuant to the department's funding allocation
517 methodology. Notwithstanding s. 287.057(3)(e), contracts for
518 community-based Baker Act services for inpatient, crisis
519 stabilization, short-term residential treatment, and screening
520 provided under this part, other than those with other units of
521 government, to be provided for the department must be awarded
522 using competitive sealed bids if the county commission of the

576-02050B-15

20157070pb

523 county receiving the services makes a request to the
524 department's district office by January 15 of the contracting
525 year. The district may not enter into a competitively bid
526 contract under this provision if such action will result in
527 increases of state or local expenditures for Baker Act services
528 within the district. Contracts for these Baker Act services
529 using competitive sealed bids are effective for 3 years. The
530 department shall adopt rules establishing minimum standards for
531 such contracted services and facilities and shall make periodic
532 audits and inspections to assure that the contracted services
533 are provided and meet the standards of the department.

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

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

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

546 (b) ~~The department shall adopt rules~~ Necessary for the
547 implementation and administration of ~~the provisions of this~~
548 part., and A program subject to ~~the provisions of this part~~ may
549 ~~shall not be permitted to~~ operate unless rules designed to
550 ensure the protection of the health, safety, and welfare of the
551 individuals examined and patients treated under through such

576-02050B-15

20157070pb

552 program have been adopted. Such rules ~~adopted under this~~
553 ~~subsection~~ must include provisions governing the use of
554 restraint and seclusion which are consistent with recognized
555 best practices and professional judgment; prohibit inherently
556 dangerous restraint or seclusion procedures; establish
557 limitations on the use and duration of restraint and seclusion;
558 establish measures to ensure the safety of program participants
559 and staff during an incident of restraint or seclusion;
560 establish procedures for staff to follow before, during, and
561 after incidents of restraint or seclusion; establish
562 professional qualifications ~~of~~ and training for staff who may
563 order or be engaged in the use of restraint or seclusion; and
564 establish mandatory reporting, data collection, and data
565 dissemination procedures and requirements. Such rules ~~adopted~~
566 ~~under this subsection~~ must require that each instance of the use
567 of restraint or seclusion be documented in the clinical record
568 of the individual who has been restrained or secluded patient.

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

572 ~~(6) PERSONNEL.—~~

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

577 ~~(b) The department shall design and distribute appropriate~~
578 ~~materials for the orientation and training of persons actively~~
579 ~~engaged in implementing the provisions of this part relating to~~
580 ~~the involuntary examination and placement of persons who are~~

576-02050B-15

20157070pb

581 ~~believed to have a mental illness.~~

582 (6)~~(7)~~ PAYMENT FOR CARE OF PATIENTS.—Fees and fee
583 collections for patients in state-owned, state-operated, or
584 state-supported treatment facilities shall be according to s.
585 402.33.

586 Section 4. Section 394.4573, Florida Statutes, is amended
587 to read:

588 394.4573 Continuity of care management system; measures of
589 performance; reports.—

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

591 (a) "Case management" means those activities aimed at
592 assessing ~~client~~ needs, planning services, linking the service
593 system ~~to a client~~, coordinating the various system components,
594 monitoring service delivery, and evaluating the effect of
595 service delivery.

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

599 (c) "Client manager" means an employee of the department
600 who is assigned to specific provider agencies and geographic
601 areas to ensure that the full range of needed services is
602 available to clients.

603 ~~(d) "Continuity of care management system" means a system~~
604 ~~that assures, within available resources, that clients have~~
605 ~~access to the full array of services within the mental health~~
606 ~~services delivery system.~~

607 (2) The department shall ensure the establishment of ~~is~~
608 ~~directed to implement~~ a continuity of care management system for
609 the provision of mental health and substance abuse care ~~in~~

576-02050B-15

20157070pb

610 ~~keeping with s. 394.9082., through the provision of client and~~
611 ~~case management, including clients referred from state treatment~~
612 ~~facilities to community mental health facilities. Such system~~
613 ~~shall include a network of client managers and case managers~~
614 ~~throughout the state designed to:~~

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

617 ~~(b) Provide for the creation or designation of an agency in~~
618 ~~each county to provide single intake services for each person~~
619 ~~seeking mental health services. Such agency shall provide~~
620 ~~information and referral services necessary to ensure that~~
621 ~~clients receive the most appropriate and least restrictive form~~
622 ~~of care, based on the individual needs of the person seeking~~
623 ~~treatment. Such agency shall have a single telephone number,~~
624 ~~operating 24 hours per day, 7 days per week, where practicable,~~
625 ~~at a central location, where each client will have a central~~
626 ~~record.~~

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

630 ~~(d) Require that any public receiving facility initiating a~~
631 ~~patient transfer to a licensed hospital for acute care mental~~
632 ~~health services not accessible through the public receiving~~
633 ~~facility shall notify the hospital of such transfer and send all~~
634 ~~records relating to the emergency psychiatric or medical~~
635 ~~condition.~~

636 ~~(3) The department is directed to develop and include in~~
637 ~~contracts with service providers measures of performance with~~
638 ~~regard to goals and objectives as specified in the state plan.~~

576-02050B-15

20157070pb

639 ~~Such measures shall use, to the extent practical, existing data~~
640 ~~collection methods and reports and shall not require, as a~~
641 ~~result of this subsection, additional reports on the part of~~
642 ~~service providers. The department shall plan monitoring visits~~
643 ~~of community mental health facilities with other state, federal,~~
644 ~~and local governmental and private agencies charged with~~
645 ~~monitoring such facilities.~~

646 Section 5. Subsections (1) through (6) and (8) of section
647 394.459, Florida Statutes, are amended, present subsection (12)
648 of that section is redesignated as subsection (13), and a new
649 subsection (12) is added to that section, to read:

650 394.459 Rights of individuals receiving treatment and
651 services patients.—

652 (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.—It is the policy of this
653 state that the ~~individual~~ dignity of all individuals held for
654 examination or admitted for mental health or substance abuse
655 treatment ~~the patient shall~~ be respected at all times and upon
656 all occasions, including ~~any occasion~~ when the individual
657 ~~patient~~ is taken into custody, held, or transported. Procedures,
658 facilities, vehicles, and restraining devices used ~~utilized~~ for
659 criminals or those accused of a crime ~~may~~ ~~shall~~ not be used in
660 connection with individuals ~~persons~~ who have a mental illness or
661 substance abuse impairment, except for the protection of that
662 individual ~~the patient~~ or others. An individual ~~Persons~~ who has
663 have a mental illness or substance abuse impairment but who has
664 are not been charged with a criminal offense may be detained
665 without his or her consent, subject to the limitations specified
666 in paragraph (b). If it has been determined that a hospital, an
667 addictions receiving facility, or a licensed detoxification

576-02050B-15

20157070pb

668 facility is the most appropriate placement for the individual,
669 the detaining officer shall: ~~shall not be detained or~~
670 ~~incarcerated in the jails of this state.~~

671 (a) Without using unreasonable force, take the individual,
672 if necessary, against his or her will, to a hospital or a
673 licensed detoxification or addictions receiving facility.

674 (b) In the case of an adult, detain the individual for his
675 or her own protection in a municipal or county jail or other
676 appropriate detention facility. Such detention may not be
677 considered an arrest for any purpose, and an entry or other
678 record may not be made to indicate that the individual has been
679 detained or charged with any crime. The officer in charge of the
680 detention facility must notify the nearest appropriate facility
681 within the first 8 hours after detention that the individual has
682 been detained. It is the duty of the detention facility to
683 arrange, as necessary, for transportation of the individual to
684 the appropriate facility.

685
686 The detaining officer shall notify the nearest relative of a
687 minor who has been taken into protective custody and shall
688 notify the nearest relative of an adult who is in such custody,
689 unless the adult requests that notification not be given. An
690 individual ~~A person~~ who is receiving treatment for mental
691 illness or substance abuse may ~~shall~~ not be deprived of his or
692 her ~~any~~ constitutional rights. However, if such individual ~~a~~
693 ~~person~~ is adjudicated incapacitated, his or her rights may be
694 limited to the same extent that the rights of any incapacitated
695 person are limited by law.

696 (2) RIGHT TO TREATMENT.—An individual held for examination

576-02050B-15

20157070pb

697 or admitted for mental illness or substance abuse treatment:

698 (a) May ~~A person shall~~ not be denied treatment for mental
699 illness or substance abuse impairment, and services may shall
700 not be delayed at a mental health receiving facility, addictions
701 receiving facility, detoxification facility, or treatment
702 facility because of inability to pay. However, every reasonable
703 effort to collect appropriate reimbursement for the cost of
704 providing mental health or substance abuse services from
705 individuals ~~to persons~~ able to pay for services, including
706 insurance or ~~third-party~~ payments by third-party payers, shall
707 be made by facilities providing services under ~~pursuant to~~ this
708 part.

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

714 (c) Shall ~~Each person who remains at a receiving or~~
715 ~~treatment facility for more than 12 hours shall~~ be given a
716 physical examination by a health practitioner authorized by law
717 to give such examinations, and a mental health evaluation by a
718 psychiatrist, psychologist, or psychiatric nurse, within 24
719 hours after arrival at such facility if the individual has not
720 been released or discharged pursuant to s. 394.463(2)(h) or s.
721 394.469. The physical examination and mental health evaluation
722 must be documented in the clinical record. The physical and
723 mental health examinations shall include efforts to identify
724 indicators of substance abuse impairment, substance abuse
725 intoxication, and substance abuse withdrawal.

576-02050B-15

20157070pb

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

730 (e) Shall, within 24 hours of admission to a facility, ~~Not~~
731 ~~more than 5 days after admission to a facility,~~ each patient
732 shall have and receive an individualized treatment plan in
733 writing, which the individual patient has had an opportunity to
734 assist in preparing and to review before ~~prior to its~~
735 implementation. The plan must ~~shall~~ include a space for the
736 individual's patient's comments and signature.

737 (3) RIGHT TO EXPRESS AND INFORMED ~~PATIENT~~ CONSENT.—

738 (a) ~~(a)1.~~ Each individual patient entering treatment shall
739 be asked to give express and informed consent for admission or
740 treatment.

741 1. If the individual patient has been adjudicated
742 incapacitated or found to be incompetent to consent to
743 treatment, express and informed consent must to treatment ~~shall~~
744 be sought from his or her ~~instead from the patient's~~ guardian,
745 ~~or~~ guardian advocate, or health care surrogate or proxy. If the
746 individual patient is a minor, express and informed consent for
747 admission or treatment must be obtained ~~shall also be requested~~
748 ~~from the patient's guardian. Express and informed consent for~~
749 ~~admission or treatment of a patient under 18 years of age shall~~
750 ~~be required from the minor's patient's~~ guardian, unless the
751 minor is seeking outpatient crisis intervention services under
752 s. 394.4784. ~~Express and informed consent for admission or~~
753 ~~treatment given by a patient who is under 18 years of age shall~~
754 ~~not be a condition of admission when the patient's guardian~~

576-02050B-15

20157070pb

755 ~~gives express and informed consent for the patient's admission~~
756 ~~pursuant to s. 394.463 or s. 394.467.~~

757 2. Before giving express and informed consent, the
758 following information shall be provided and explained in plain
759 language to the individual and patient, ~~or to his or her the~~
760 ~~patient's~~ guardian if the individual patient is an adult 18
761 ~~years of age or older~~ and has been adjudicated incapacitated, ~~or~~
762 to his or her the patient's guardian advocate if the individual
763 ~~patient~~ has been found to be incompetent to consent to
764 treatment, to the health care surrogate or proxy, or to both the
765 individual patient and the guardian if the individual patient is
766 a minor: the reason for admission or treatment; the proposed
767 treatment and ; the purpose of such the treatment ~~to be~~
768 ~~provided~~; the common risks, benefits, and side effects of the
769 proposed treatment thereof; the specific dosage range of for the
770 medication, if when applicable; alternative treatment
771 modalities; the approximate length of care; the potential
772 effects of stopping treatment; how treatment will be monitored;
773 and that any consent given for treatment may be revoked orally
774 or in writing before or during the treatment period by the
775 individual receiving the treatment patient or by a person who is
776 legally authorized to make health care decisions on the
777 individual's behalf ~~of the patient~~.

778 ~~(b) In the case of medical procedures requiring the use of~~
779 ~~a general anesthetic or electroconvulsive treatment, and prior~~
780 ~~to performing the procedure, express and informed consent shall~~
781 ~~be obtained from the patient if the patient is legally~~
782 ~~competent, from the guardian of a minor patient, from the~~
783 ~~guardian of a patient who has been adjudicated incapacitated, or~~

576-02050B-15

20157070pb

784 ~~from the guardian advocate of the patient if the guardian~~
785 ~~advocate has been given express court authority to consent to~~
786 ~~medical procedures or electroconvulsive treatment as provided~~
787 ~~under s. 394.4598.~~

788 (4) QUALITY OF TREATMENT.—

789 (a) Each individual held for examination, admitted for
790 mental health or substance abuse treatment, or receiving
791 involuntary outpatient treatment ~~patient shall receive services,~~
792 ~~including, for a patient placed under s. 394.4655 shall receive,~~
793 ~~those services that are included in the court order which are~~
794 ~~suited to his or her needs, and which shall be administered~~
795 ~~skillfully, safely, and humanely with full respect for the~~
796 individual's ~~patient's~~ dignity and personal integrity. Each
797 individual ~~patient~~ shall receive such medical, vocational,
798 social, educational, substance abuse, and rehabilitative
799 services as his or her condition requires in order to live
800 successfully in the community. In order to achieve this goal,
801 the department shall ~~is directed to~~ coordinate its mental health
802 and substance abuse programs with all other programs of the
803 department and other state agencies.

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

809 1. Criteria, procedures, and required staff training for
810 the any use of close or elevated levels of supervision, ~~of~~
811 restraint, seclusion, or isolation, ~~or of~~ emergency treatment
812 orders, and ~~for the use of~~ bodily control and physical

576-02050B-15

20157070pb

813 management techniques.

814 2. Procedures for documenting, monitoring, and requiring
815 clinical review of all uses of the procedures described in
816 subparagraph 1. and for documenting and requiring review of any
817 incidents resulting in injury to individuals receiving services
818 ~~patients~~.

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

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

827 1. The death, regardless of cause or manner, of an
828 individual examined or treated at a facility that occurs while
829 the individual is at the facility or that occurs within 72 hours
830 after release, if the death is known to the facility
831 administrator.

832 2. An injury sustained, or allegedly sustained, at a
833 facility, by an individual examined or treated at the facility
834 and caused by an accident, self-inflicted injury, assault, act
835 of abuse, neglect, or suicide attempt, if the injury requires
836 medical treatment by a licensed health care practitioner in an
837 acute care medical facility.

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

841 4. A disaster or crisis situation such as a tornado,

576-02050B-15

20157070pb

842 hurricane, kidnapping, riot, or hostage situation that
843 jeopardizes the health, safety, or welfare of individuals
844 examined or treated in a facility.

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

847 (d) ~~(e)~~ A facility may not use seclusion or restraint for
848 punishment, to compensate for inadequate staffing, or for the
849 convenience of staff. Facilities shall ensure that all staff are
850 made aware of these restrictions ~~on the use of seclusion and~~
851 ~~restraint and shall make and maintain records that which~~
852 demonstrate that this information has been conveyed to each
853 ~~individual~~ staff member ~~members~~.

854 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

855 (a) Each individual held for examination or admitted for
856 mental health or substance abuse treatment ~~person receiving~~
857 ~~services~~ in a facility providing mental health services under
858 this part has the right to communicate freely and privately with
859 persons outside the facility unless it is determined that such
860 communication is likely to be harmful to the individual ~~person~~
861 or others. Each facility shall make available ~~as soon as~~
862 ~~reasonably possible to persons receiving services~~ a telephone
863 that allows for free local calls and access to a long-distance
864 service to the individual as soon as reasonably possible. A
865 facility is not required to pay the costs of the individual's ~~a~~
866 ~~patient's~~ long-distance calls. The telephone must ~~shall~~ be
867 readily accessible ~~to the patient~~ and ~~shall be~~ placed so that
868 the individual ~~patient~~ may use it to communicate privately and
869 confidentially. The facility may establish reasonable rules for
870 the use of the ~~this~~ telephone which, ~~provided that the rules do~~

576-02050B-15

20157070pb

871 not interfere with an individual's ~~a patient's~~ access to a
872 telephone to report abuse pursuant to paragraph (e).

873 (b) Each individual ~~patient~~ admitted to a facility under
874 ~~the provisions of~~ this part shall be allowed to receive, send,
875 and mail sealed, unopened correspondence; and the individual's
876 ~~no patient's~~ incoming or outgoing correspondence may not ~~shall~~
877 be opened, delayed, held, or censored by the facility unless
878 there is reason to believe that it contains items or substances
879 that ~~which~~ may be harmful to the individual ~~patient~~ or others,
880 in which case the administrator may direct reasonable
881 examination of such mail and may regulate the disposition of
882 such items or substances.

883 (c) Each facility shall allow ~~must permit~~ immediate access
884 to an individual held for examination or admitted for mental
885 health or substance abuse treatment ~~any patient~~, subject to the
886 ~~patient's~~ right to deny or withdraw consent at any time, by the
887 individual, or by the individual's ~~patient's~~ family members,
888 guardian, guardian advocate, health care surrogate or proxy,
889 representative, ~~Florida statewide or local advocacy council,~~ or
890 attorneys ~~attorney~~, unless such access would be detrimental to
891 the individual ~~patient~~. If the ~~a patient's~~ right to communicate
892 or to receive visitors is restricted by the facility, written
893 notice of such restriction and the reasons for the restriction
894 shall be served on the individual and ~~patient~~, the individual's
895 ~~patient's~~ attorney, and ~~the patient's~~ guardian, guardian
896 advocate, health care surrogate or proxy, or representative; and
897 such restriction, and the reasons for the restriction, must
898 ~~shall~~ be recorded in on the ~~patient's~~ clinical record ~~with the~~
899 ~~reasons therefor~~. The restriction must ~~of a patient's right to~~

576-02050B-15

20157070pb

900 ~~communicate or to receive visitors~~ shall be reviewed at least
901 every 7 days. The right to communicate or receive visitors may
902 ~~shall~~ not be restricted as a means of punishment. This ~~Nothing~~
903 ~~in this~~ paragraph may not ~~shall~~ be construed to limit the
904 provisions of paragraph (d).

905 (d) Each facility shall establish reasonable rules, which
906 must be the least restrictive possible, governing visitors,
907 visiting hours, and the use of telephones by individuals held
908 for examination or admitted for mental health or substance abuse
909 treatment patients in the least restrictive possible manner. An
910 individual has ~~Patients shall have~~ the right to contact and to
911 receive communication from his or her attorney ~~their attorneys~~
912 at any reasonable time.

913 (e) Each individual held for examination or admitted for
914 patient receiving mental health or substance abuse treatment ~~in~~
915 ~~any facility~~ shall have ready access to a telephone in order to
916 report ~~an~~ alleged abuse. The facility staff shall orally and in
917 writing inform each individual patient of the procedure for
918 reporting abuse and shall make every reasonable effort to
919 present the information in a language the individual patient
920 understands. A written copy of that procedure, including the
921 telephone number of the central abuse hotline and reporting
922 forms, must ~~shall~~ be posted in plain view.

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

927 (6) CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS.~~ A
928 facility shall respect the rights of an individual held for

576-02050B-15

20157070pb

929 examination or admitted for mental health or substance abuse
930 treatment ~~A patient's right~~ to the possession of his or her
931 clothing and personal effects ~~shall be respected~~. The facility
932 may take temporary custody of such effects if ~~when~~ required for
933 medical and safety reasons. The ~~A patient's~~ clothing and
934 personal effects shall be inventoried upon their removal into
935 temporary custody. Copies of this inventory shall be given to
936 the individual patient and to his or her ~~the patient's~~ guardian,
937 guardian advocate, health care surrogate or proxy, or
938 representative and shall be recorded in the ~~patient's~~ clinical
939 record. This inventory may be amended upon the request of the
940 individual patient or his or her ~~the patient's~~ guardian,
941 guardian advocate, health care surrogate or proxy, or
942 representative. The inventory and any amendments ~~to it~~ must be
943 witnessed by two members of the facility staff and by the
944 individual patient, if he or she is able. All of the ~~a patient's~~
945 clothing and personal effects held by the facility shall be
946 returned to the individual patient immediately upon his or her
947 ~~the~~ discharge or transfer ~~of the patient~~ from the facility,
948 unless such return would be detrimental to the individual
949 ~~patient~~. If personal effects are not returned ~~to the patient~~,
950 the reason must be documented in the clinical record along with
951 the disposition of the clothing and personal effects, which may
952 be given instead to the individual's patient's guardian,
953 guardian advocate, health care surrogate or proxy, or
954 representative. As soon as practicable after an emergency
955 transfer ~~of a patient~~, the individual's ~~patient's~~ clothing and
956 personal effects shall be transferred to the individual's
957 ~~patient's~~ new location, together with a copy of the inventory

576-02050B-15

20157070pb

958 and any amendments, unless an alternate plan is approved by the
959 individual patient, if he or she is able, and by his or her ~~the~~
960 ~~patient's~~ guardian, guardian advocate, health care surrogate or
961 proxy, or representative.

962 (7) VOTING IN PUBLIC ELECTIONS.—A patient who is eligible
963 to vote according to the laws of the state has the right to vote
964 in the primary and general elections. The department shall
965 establish rules to enable patients to obtain voter registration
966 forms, applications for absentee ballots, and absentee ballots.

967 (8) HABEAS CORPUS.—

968 (a) At any time, and without notice, an individual ~~a person~~
969 held or admitted for mental health or substance abuse
970 examination or placement in a ~~receiving or treatment~~ facility,
971 or a relative, friend, guardian, guardian advocate, health care
972 surrogate or proxy, representative, or attorney, or the
973 department, on behalf of such individual ~~person~~, may petition
974 for a writ of habeas corpus to question the cause and legality
975 of such detention and request that the court order a return to
976 the writ in accordance with chapter 79. Each individual ~~patient~~
977 held in a facility shall receive a written notice of the right
978 to petition for a writ of habeas corpus.

979 (b) At any time, and without notice, an individual held or
980 admitted for mental health or substance abuse examination or
981 placement ~~a person who is a patient~~ in a ~~receiving or treatment~~
982 facility, or a relative, friend, guardian, guardian advocate,
983 health care surrogate or proxy, representative, or attorney, or
984 the department, on behalf of such individual ~~person~~, may file a
985 petition in the circuit court in the county where the individual
986 ~~patient~~ is being held alleging that he or she ~~the patient~~ is

576-02050B-15

20157070pb

987 being unjustly denied a right or privilege granted under this
988 part herein or that a procedure authorized under this part
989 ~~herein~~ is being abused. Upon the filing of such a petition, the
990 court may ~~shall have the authority to~~ conduct a judicial inquiry
991 and ~~to~~ issue an any order ~~needed~~ to correct an abuse of ~~the~~
992 ~~provisions of~~ this part.

993 (c) The administrator of any ~~receiving or treatment~~
994 facility receiving a petition under this subsection shall file
995 the petition with the clerk of the court on the next court
996 working day.

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

999 (9) VIOLATIONS.—The department shall report to the Agency
1000 for Health Care Administration any violation of the rights or
1001 privileges of patients, or of any procedures provided under this
1002 part, by any facility or professional licensed or regulated by
1003 the agency. The agency is authorized to impose any sanction
1004 authorized for violation of this part, based solely on the
1005 investigation and findings of the department.

1006 (10) LIABILITY FOR VIOLATIONS.—Any person who violates or
1007 abuses any rights or privileges of patients provided by this
1008 part is liable for damages as determined by law. Any person who
1009 acts in good faith in compliance with the provisions of this
1010 part is immune from civil or criminal liability for his or her
1011 actions in connection with the admission, diagnosis, treatment,
1012 or discharge of a patient to or from a facility. However, this
1013 section does not relieve any person from liability if such
1014 person commits negligence.

1015 (11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE

576-02050B-15

20157070pb

1016 PLANNING.—The patient shall have the opportunity to participate
1017 in treatment and discharge planning and shall be notified in
1018 writing of his or her right, upon discharge from the facility,
1019 to seek treatment from the professional or agency of the
1020 patient's choice.

1021 (12) ADVANCE DIRECTIVES.—All service providers under this
1022 part shall provide information concerning advance directives to
1023 individuals and assist those who are competent and willing to
1024 complete an advance directive. The directive may include
1025 instructions regarding mental health or substance abuse care.
1026 Service providers under this part shall honor the advance
1027 directive of individuals they serve, or shall request the
1028 transfer of the individual as required under s. 765.1105.

1029 Section 6. Section 394.4597, Florida Statutes, is amended
1030 to read:

1031 394.4597 Persons to be notified; appointment of a ~~patient's~~
1032 representative.—

1033 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual
1034 ~~a patient~~ is voluntarily admitted to a receiving or treatment
1035 facility, the individual shall be asked to identify a person to
1036 be notified in case of an emergency, and the identity and
1037 contact information of that ~~a person to be notified in case of~~
1038 ~~an emergency~~ shall be entered in the individual's ~~patient's~~
1039 ~~clinical~~ record.

1040 (2) INVOLUNTARY ADMISSION PATIENTS.—

1041 (a) At the time an individual ~~a patient~~ is admitted to a
1042 facility for involuntary examination or placement, or when a
1043 petition for involuntary placement is filed, the names,
1044 addresses, and telephone numbers of the individual's ~~patient's~~

576-02050B-15

20157070pb

1045 guardian or guardian advocate, health care surrogate, or proxy,
1046 or representative if he or she ~~the patient~~ has no guardian, and
1047 the individual's ~~patient's~~ attorney shall be entered in the
1048 ~~patient's clinical~~ record.

1049 (b) If the individual ~~patient~~ has no guardian, guardian
1050 advocate, health care surrogate, or proxy, he or she ~~the patient~~
1051 shall be asked to designate a representative. If the individual
1052 ~~patient~~ is unable or unwilling to designate a representative,
1053 the facility shall select a representative.

1054 (c) The individual ~~patient~~ shall be consulted with regard
1055 to the selection of a representative by the receiving or
1056 treatment facility and may ~~shall have authority to~~ request that
1057 ~~the any such~~ representative be replaced.

1058 (d) ~~If~~ When the receiving or treatment facility selects a
1059 representative, first preference shall be given to a health care
1060 surrogate, if one has been previously selected ~~by the patient~~.
1061 If the individual ~~patient~~ has not previously selected a health
1062 care surrogate, the selection, except for good cause documented
1063 in the individual's ~~patient's~~ clinical record, shall be made
1064 from the following list in the order of listing:

- 1065 1. The individual's ~~patient's~~ spouse.
- 1066 2. An adult child of the individual ~~patient~~.
- 1067 3. A parent of the individual ~~patient~~.
- 1068 4. The adult next of kin of the individual ~~patient~~.
- 1069 5. An adult friend of the individual ~~patient~~.
- 1070 ~~6. The appropriate Florida local advocacy council as~~
1071 ~~provided in s. 402.166.~~

1072 (e) The following persons are prohibited from selection as
1073 an individual's representative:

576-02050B-15

20157070pb

1074 1. A professional providing clinical services to the
1075 individual under this part;

1076 2. The licensed professional who initiated the involuntary
1077 examination of the individual, if the examination was initiated
1078 by professional certificate;

1079 3. An employee, administrator, or board member of the
1080 facility providing the examination of the individual;

1081 4. An employee, administrator, or board member of a
1082 treatment facility providing treatment of the individual;

1083 5. A person providing any substantial professional services
1084 to the individual, including clinical and nonclinical services;

1085 6. A creditor of the individual;

1086 7. A person subject to an injunction for protection against
1087 domestic violence under s. 741.30, whether the order of
1088 injunction is temporary or final, and for which the individual
1089 was the petitioner; and

1090 8. A person subject to an injunction for protection against
1091 repeat violence, sexual violence, or dating violence under s.
1092 784.046, whether the order of injunction is temporary or final,
1093 and for which the individual was the petitioner.

1094 ~~(e) A licensed professional providing services to the~~
1095 ~~patient under this part, an employee of a facility providing~~
1096 ~~direct services to the patient under this part, a department~~
1097 ~~employee, a person providing other substantial services to the~~
1098 ~~patient in a professional or business capacity, or a creditor of~~
1099 ~~the patient shall not be appointed as the patient's~~
1100 ~~representative.~~

1101 (f) The representative selected by the individual or
1102 designated by the facility has the right to:

576-02050B-15

20157070pb

- 1103 1. Receive notice of the individual's admission;
1104 2. Receive notice of proceedings affecting the individual;
1105 3. Have immediate access to the individual unless such
1106 access is documented to be detrimental to the individual;
1107 4. Receive notice of any restriction of the individual's
1108 right to communicate or receive visitors;
1109 5. Receive a copy of the inventory of personal effects upon
1110 the individual's admission and to request an amendment to the
1111 inventory at any time;
1112 6. Receive disposition of the individual's clothing and
1113 personal effects if not returned to the individual, or to
1114 approve an alternate plan;
1115 7. Petition on behalf of the individual for a writ of
1116 habeas corpus to question the cause and legality of the
1117 individual's detention or to allege that the individual is being
1118 unjustly denied a right or privilege granted under this part, or
1119 that a procedure authorized under this part is being abused;
1120 8. Apply for a change of venue for the individual's
1121 involuntary placement hearing for the convenience of the parties
1122 or witnesses or because of the individual's condition;
1123 9. Receive written notice of any restriction of the
1124 individual's right to inspect his or her clinical record;
1125 10. Receive notice of the release of the individual from a
1126 receiving facility where an involuntary examination was
1127 performed;
1128 11. Receive a copy of any petition for the individual's
1129 involuntary placement filed with the court; and
1130 12. Be informed by the court of the individual's right to
1131 an independent expert evaluation pursuant to involuntary

576-02050B-15

20157070pb

1132 placement procedures.

1133 Section 7. Section 394.4598, Florida Statutes, is amended
1134 to read:

1135 394.4598 Guardian advocate.—

1136 (1) The administrator may petition the court for the
1137 appointment of a guardian advocate based upon the opinion of a
1138 psychiatrist that an individual held for examination or admitted
1139 for mental health or substance abuse treatment ~~the patient is~~
1140 incompetent to consent to treatment. If the court finds that the
1141 individual ~~a patient~~ is incompetent to consent to treatment and
1142 has not been adjudicated incapacitated and a guardian having
1143 ~~with the~~ authority to consent to mental health or substance
1144 abuse treatment has not been appointed, it shall appoint a
1145 guardian advocate. The individual ~~patient~~ has the right to have
1146 an attorney represent him or her at the hearing. If the
1147 individual ~~person~~ is indigent, the court shall appoint the
1148 office of the public defender to represent him or her at the
1149 hearing. The individual ~~patient~~ has the right to testify, cross-
1150 examine witnesses, and present witnesses. The proceeding must
1151 ~~shall~~ be recorded ~~either~~ electronically or stenographically, and
1152 testimony shall be ~~provided~~ under oath. One of the professionals
1153 authorized to give an opinion in support of a petition for
1154 involuntary placement, as described in s. 394.4655 or s.
1155 394.467, shall ~~must~~ testify. The ~~A~~ guardian advocate shall ~~must~~
1156 meet the qualifications of a guardian pursuant to ~~contained in~~
1157 ~~part IV of chapter 744, except that a professional referred to~~
1158 ~~in this part, an employee of the facility providing direct~~
1159 ~~services to the patient under this part, a departmental~~
1160 ~~employee, a facility administrator, or member of the Florida~~

576-02050B-15

20157070pb

1161 ~~local advocacy council shall not be appointed. A person who is~~
1162 ~~appointed as a guardian advocate must agree to the appointment.~~
1163 A person may not be appointed as a guardian advocate unless he
1164 or she agrees to the appointment.

1165 (2) The following persons are prohibited from being
1166 appointed as an individual's guardian advocate:

1167 (a) A professional providing clinical services to the
1168 individual under this part;

1169 (b) The licensed professional who initiated the involuntary
1170 examination of the individual, if the examination was initiated
1171 by professional certificate;

1172 (c) An employee, administrator, or board member of the
1173 facility providing the examination of the individual;

1174 (d) An employee, administrator, or board member of a
1175 treatment facility providing treatment of the individual;

1176 (e) A person providing any substantial professional
1177 services to the individual, including clinical and nonclinical
1178 services;

1179 (f) A creditor of the individual;

1180 (g) A person subject to an injunction for protection
1181 against domestic violence under s. 741.30, whether the order of
1182 injunction is temporary or final, and for which the individual
1183 was the petitioner; and

1184 (h) A person subject to an injunction for protection
1185 against repeat violence, sexual violence, or dating violence
1186 under s. 784.046, whether the order of injunction is temporary
1187 or final, and for which the individual was the petitioner.

1188 (3)~~(2)~~ A facility requesting appointment of a guardian
1189 advocate must, prior to the appointment, provide the prospective

576-02050B-15

20157070pb

1190 guardian advocate with information about the duties and
1191 responsibilities of guardian advocates, including the
1192 information about the ethics of medical decisionmaking. Before
1193 asking a guardian advocate to give consent to treatment for an
1194 individual held for examination or admitted for mental health or
1195 substance abuse treatment ~~a patient~~, the facility shall provide
1196 ~~to the guardian advocate~~ sufficient information to allow ~~so that~~
1197 the guardian advocate to ~~can~~ decide whether to give express and
1198 informed consent to the treatment, including information that
1199 the treatment is essential to the care of the individual
1200 ~~patient~~, and that the treatment does not present an unreasonable
1201 risk of serious, hazardous, or irreversible side effects. Before
1202 giving consent to treatment, the guardian advocate must meet and
1203 talk with the individual ~~patient~~ and the individual's ~~patient's~~
1204 physician face to face in person, if ~~at all~~ possible, and by
1205 telephone, if not. The guardian advocate shall make every effort
1206 to make decisions regarding treatment that he or she believes
1207 the individual would have made under the circumstances if the
1208 individual were capable of making such a decision. The decision
1209 of the guardian advocate may be reviewed by the court, upon
1210 petition of the individual's ~~patient's~~ attorney, the
1211 individual's ~~patient's~~ family, or the facility administrator.

1212 (4) (3) Prior to A guardian advocate must attend at least a
1213 4-hour training course approved by the court before exercising
1214 ~~his or her authority, the guardian advocate shall attend a~~
1215 ~~training course approved by the court.~~ This training course, ~~of~~
1216 ~~not less than 4 hours,~~ must include, at minimum, information
1217 about an ~~the~~ individual's ~~patient~~ rights, psychotropic
1218 medications, diagnosis of mental illness or substance abuse

576-02050B-15

20157070pb

1219 impairment, the ethics of medical decisionmaking, and the duties
1220 of guardian advocates. This training course shall take the place
1221 of the training required for guardians appointed pursuant to
1222 chapter 744.

1223 (5)~~(4)~~ The information to be supplied to prospective
1224 guardian advocates before ~~prior to~~ their appointment and the
1225 training course for guardian advocates must be developed and
1226 completed through a course developed by the department and
1227 approved by the chief judge of the circuit court and taught by a
1228 court-approved organization. Court-approved organizations may
1229 include, but need ~~are~~ not be limited to, community ~~or junior~~
1230 colleges, guardianship organizations, and the local bar
1231 association or The Florida Bar. The court may, ~~in its~~
1232 ~~discretion~~, waive some or all of the training requirements for
1233 guardian advocates or impose additional requirements. The court
1234 shall make its decision on a case-by-case basis and, in making
1235 its decision, shall consider the experience and education of the
1236 guardian advocate, the duties assigned to the guardian advocate,
1237 and the needs of the individual subject to involuntary
1238 examination or placement ~~patient~~.

1239 (6)~~(5)~~ In selecting a guardian advocate, the court shall
1240 give preference to a health care surrogate, if one has already
1241 been designated by the individual held for examination or
1242 admitted for mental health or substance abuse treatment ~~patient~~.
1243 If the individual ~~patient~~ has not previously selected a health
1244 care surrogate, except for good cause documented in the court
1245 record, the selection shall be made from the following list in
1246 the order of listing:

1247 (a) The individual's ~~patient's~~ spouse.

576-02050B-15

20157070pb

- 1248 (b) An adult child of the individual ~~patient~~.
- 1249 (c) A parent of the individual ~~patient~~.
- 1250 (d) The adult next of kin of the individual ~~patient~~.
- 1251 (e) An adult friend of the individual ~~patient~~.
- 1252 (f) An adult trained and willing to serve as guardian
- 1253 advocate for the individual ~~patient~~.
- 1254 ~~(7)-(6)~~ If a guardian with the authority to consent to
- 1255 medical treatment has not already been appointed or if the
- 1256 individual held for examination or admitted for mental health or
- 1257 substance abuse treatment ~~patient~~ has not already designated a
- 1258 health care surrogate, the court may authorize the guardian
- 1259 advocate to consent to medical treatment, as well as mental
- 1260 health and substance abuse treatment. Unless otherwise limited
- 1261 by the court, a guardian advocate with authority to consent to
- 1262 medical treatment shall have the same authority to make health
- 1263 care decisions and be subject to the same restrictions as a
- 1264 proxy appointed under part IV of chapter 765. Unless the
- 1265 guardian advocate has sought and received express court approval
- 1266 in proceeding separate from the proceeding to determine the
- 1267 competence of the patient to consent to medical treatment, the
- 1268 guardian advocate may not consent to:
- 1269 (a) Abortion.
- 1270 (b) Sterilization.
- 1271 (c) Electroconvulsive treatment.
- 1272 (d) Psychosurgery.
- 1273 (e) Experimental treatments that have not been approved by
- 1274 a federally approved institutional review board in accordance
- 1275 with 45 C.F.R. part 46 or 21 C.F.R. part 56.
- 1276

576-02050B-15

20157070pb

1277 In making a medical treatment decision under this subsection,
1278 the court shall ~~must~~ base its decision on evidence that the
1279 treatment or procedure is essential to the care of the
1280 individual patient and that the treatment does not present an
1281 unreasonable risk of serious, hazardous, or irreversible side
1282 effects. The court shall follow the procedures set forth in
1283 subsection (1) of this section.

1284 ~~(8)(7)~~ The guardian advocate shall be discharged when the
1285 individual for whom he or she is appointed patient is discharged
1286 from an order for involuntary outpatient ~~placement~~ or
1287 involuntary inpatient placement or when the individual patient
1288 is transferred from involuntary to voluntary status. The court
1289 ~~or a hearing officer~~ shall consider the competence of the
1290 individual patient pursuant to subsection (1) and may consider
1291 an involuntarily placed individual's patient's competence to
1292 consent to treatment at any hearing. Upon sufficient evidence,
1293 the court may restore, or the magistrate or administrative law
1294 judge hearing officer may recommend that the court restore, the
1295 individual's patient's competence. A copy of the order restoring
1296 competence or the certificate of discharge containing the
1297 restoration of competence shall be provided to the individual
1298 ~~patient~~ and the guardian advocate.

1299 Section 8. Section 394.4599, Florida Statutes, is amended
1300 to read:

1301 394.4599 Notice.—

1302 (1) VOLUNTARY ADMISSION PATIENTS.—Notice of an individual's
1303 a voluntary ~~patient's~~ admission shall ~~only~~ be given only at the
1304 request of the individual patient, except that, in an emergency,
1305 notice shall be given as determined by the facility.

576-02050B-15

20157070pb

1306 (2) INVOLUNTARY ADMISSION ~~PATIENTS~~.—

1307 (a) Whenever notice is required to be given under this
1308 part, such notice shall be given to the individual ~~patient~~ and
1309 the individual's ~~patient's~~ guardian, guardian advocate, health
1310 care surrogate or proxy, attorney, and representative.

1311 1. When notice is required to be given to an individual ~~a~~
1312 ~~patient~~, it shall be given both orally and in writing, in the
1313 language and terminology that the individual ~~patient~~ can
1314 understand, and, if needed, the facility shall provide an
1315 interpreter for the individual ~~patient~~.

1316 2. Notice to an individual's ~~a patient's~~ guardian, guardian
1317 advocate, health care surrogate or proxy, attorney, and
1318 representative shall be given by ~~United States mail and by~~
1319 ~~registered or certified~~ mail with the receipts attached to the
1320 ~~patient's~~ clinical record. Hand delivery by a facility employee
1321 may be used as an alternative, with delivery documented in the
1322 clinical record. If notice is given by a state attorney or an
1323 attorney for the department, a certificate of service is ~~shall~~
1324 ~~be~~ sufficient to document service.

1325 (b) A receiving facility shall give prompt notice of the
1326 whereabouts of an individual ~~a patient~~ who is being
1327 involuntarily held for examination to the individual's guardian,
1328 guardian advocate, health care surrogate or proxy, attorney or
1329 representative, by telephone or in person within 24 hours after
1330 the individual's ~~patient's~~ arrival at the facility, ~~unless the~~
1331 ~~patient requests that no notification be made~~. Contact attempts
1332 shall be documented in the individual's ~~patient's~~ clinical
1333 record and shall begin as soon as reasonably possible after the
1334 individual's ~~patient's~~ arrival. ~~Notice that a patient is being~~

576-02050B-15

20157070pb

1335 ~~admitted as an involuntary patient shall be given to the Florida~~
1336 ~~local advocacy council no later than the next working day after~~
1337 ~~the patient is admitted.~~

1338 (c) The written notice of the filing of the petition for
1339 involuntary placement of an individual being held must contain
1340 the following:

1341 1. Notice that the petition has been filed with the circuit
1342 court in the county in which the individual ~~patient~~ is
1343 hospitalized and the address of such court.

1344 2. Notice that the office of the public defender has been
1345 appointed to represent the individual ~~patient~~ in the proceeding,
1346 if the individual ~~patient~~ is not otherwise represented by
1347 counsel.

1348 3. The date, time, and place of the hearing and the name of
1349 each examining expert and every other person expected to testify
1350 in support of continued detention.

1351 4. Notice that the individual ~~patient~~, the individual's
1352 patient's guardian, guardian advocate, health care surrogate or
1353 proxy, or representative, or the administrator may apply for a
1354 change of venue for the convenience of the parties or witnesses
1355 or because of the condition of the individual ~~patient~~.

1356 5. Notice that the individual ~~patient~~ is entitled to an
1357 independent expert examination and, if the individual ~~patient~~
1358 cannot afford such an examination, that the court will provide
1359 for one.

1360 (d) A treatment facility shall provide notice of an
1361 individual's ~~a patient's~~ involuntary admission on the next
1362 regular working day after the individual's ~~patient's~~ arrival at
1363 the facility.

576-02050B-15

20157070pb

1364 (e) When an individual ~~a patient~~ is to be transferred from
1365 one facility to another, notice shall be given by the facility
1366 where the individual patient is located before ~~prior to~~ the
1367 transfer.

1368 Section 9. Subsections (1), (2), (3), and (10) of section
1369 394.4615, Florida Statutes, are amended to read:

1370 394.4615 Clinical records; confidentiality.—

1371 (1) A clinical record shall be maintained for each
1372 individual held for examination or admitted for treatment under
1373 this part patient. The record shall include data pertaining to
1374 admission and such other information as may be required under
1375 rules of the department. A clinical record is confidential and
1376 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by
1377 express and informed consent of the individual, ~~by the patient~~
1378 or his or her the patient's guardian, ~~or~~ guardian advocate,
1379 health care surrogate or proxy, or, if the individual patient is
1380 deceased, by his or her guardian, guardian advocate, health care
1381 surrogate or proxy, by his or her ~~the patient's~~ personal
1382 representative or the family member who stands next in line of
1383 intestate succession, the confidential status of the clinical
1384 record shall not be lost by either authorized or unauthorized
1385 disclosure to any person, organization, or agency.

1386 (2) The clinical record of an individual held for
1387 examination or admitted for treatment under this part shall be
1388 released if ~~when~~:

1389 (a) The individual patient or the individual's patient's
1390 guardian, guardian advocate, health care surrogate or proxy, or
1391 representative authorizes the release. The guardian, ~~or~~ guardian
1392 advocate, health care surrogate or proxy shall be provided

576-02050B-15

20157070pb

1393 access to the appropriate clinical records ~~of the patient~~. The
1394 individual patient or the patient's guardian, ~~or~~ guardian
1395 advocate, health care surrogate or proxy may authorize the
1396 release of information and clinical records to appropriate
1397 persons to ensure the continuity of the individual's ~~patient's~~
1398 health ~~care~~ or mental health or substance abuse care.

1399 (b) The individual ~~patient~~ is represented by counsel and
1400 the records are needed by the individual's ~~patient's~~ counsel for
1401 adequate representation.

1402 (c) A petition for involuntary placement is filed and the
1403 records are needed by the state attorney to evaluate and confirm
1404 the allegations set forth in the petition or to prosecute the
1405 petition. However, the state attorney may not use clinical
1406 records obtained under this part for the purpose of criminal
1407 investigation or prosecution, or for any other purpose not
1408 authorized by this part.

1409 (d) ~~(e)~~ The court orders such release. In determining
1410 whether there is good cause for disclosure, the court shall
1411 weigh the need for the information to be disclosed against the
1412 possible harm of disclosure to the individual ~~person~~ to whom
1413 such information pertains.

1414 (e) ~~(d)~~ The individual ~~patient~~ is committed to, or is to be
1415 returned to, the Department of Corrections ~~from the Department~~
1416 ~~of Children and Families~~, and the Department of Corrections
1417 requests such records. These records shall be furnished without
1418 charge to the Department of Corrections.

1419 (3) Information from the clinical record may be released in
1420 the following circumstances:

1421 (a) When a patient has declared an intention to harm other

576-02050B-15

20157070pb

1422 persons. When such declaration has been made, the administrator
1423 may authorize the release of sufficient information to provide
1424 adequate warning to the person threatened with harm by the
1425 patient.

1426 (b) When the administrator of the facility or secretary of
1427 the department deems release to a qualified researcher as
1428 defined in administrative rule, an aftercare treatment provider,
1429 or an employee or agent of the department is necessary for
1430 treatment of the patient, maintenance of adequate records,
1431 compilation of treatment data, aftercare planning, or evaluation
1432 of programs.

1433
1434 For the purpose of determining whether a person meets the
1435 criteria for involuntary outpatient placement or for preparing
1436 the proposed treatment plan pursuant to s. 394.4655, the
1437 clinical record may be released to the state attorney, the
1438 public defender or the patient's private legal counsel, the
1439 court, and to the appropriate mental health professionals,
1440 including the service provider identified in s. 394.4655(7)(b)
1441 ~~s. 394.4655(6)(b)2.~~, in accordance with state and federal law.

1442 (10) An individual held for examination or admitted for
1443 treatment ~~Patients~~ shall have reasonable access to his or her
1444 ~~their~~ clinical records, unless such access is determined by the
1445 individual's ~~patient's~~ physician to be harmful to the individual
1446 ~~patient~~. If the individual's ~~patient's~~ right to inspect his or
1447 her clinical record is restricted by the facility, written
1448 notice of such restriction shall be given to the individual
1449 ~~patient~~ and the individual's ~~patient's~~ guardian, guardian
1450 advocate, health care surrogate or proxy, or attorney, and

576-02050B-15

20157070pb

1451 representative. In addition, the restriction shall be recorded
1452 in the clinical record, together with the reasons for it. The
1453 restriction of an individual's ~~a patient's~~ right to inspect his
1454 or her clinical record shall expire after 7 days but may be
1455 renewed, after review, for subsequent 7-day periods.

1456 Section 10. Paragraphs (a) through (m) of subsection (1) of
1457 section 394.462, Florida Statutes, are amended, and paragraph
1458 (n) is added to that subsection, to read:

1459 394.462 Transportation.—

1460 (1) TRANSPORTATION TO A RECEIVING OR DETOXIFICATION
1461 FACILITY.—

1462 (a) Each county shall designate a single law enforcement
1463 agency within the county, or portions thereof, to take an
1464 individual ~~a person~~ into custody upon the entry of an ex parte
1465 order or the execution of a certificate for involuntary
1466 examination by an authorized professional and to transport that
1467 individual ~~person~~ to the nearest receiving facility for
1468 examination. The designated law enforcement agency may decline
1469 to transport the individual ~~person~~ to a receiving or
1470 detoxification facility only if:

1471 1. The county or jurisdiction designated by the county has
1472 contracted ~~on an annual basis~~ with an emergency medical
1473 transport service or private transport company for
1474 transportation of individuals ~~persons~~ to receiving facilities
1475 ~~pursuant to this section at the sole cost of the county; and~~

1476 2. The law enforcement agency and the emergency medical
1477 transport service or private transport company agree that the
1478 continued presence of law enforcement personnel is not necessary
1479 for the safety of the individuals being transported ~~person~~ or

576-02050B-15

20157070pb

1480 others.

1481 3. The jurisdiction designated by the county may seek
1482 reimbursement for transportation expenses. The party responsible
1483 for payment for such transportation is the person receiving the
1484 transportation. The county shall seek reimbursement from the
1485 following sources in the following order:

1486 a. From an insurance company, health care corporation, or
1487 other source, if the individual being transported ~~person~~
1488 ~~receiving the transportation~~ is covered by an insurance policy
1489 or subscribes to a health care corporation or other source for
1490 payment of such expenses.

1491 b. From the individual being transported ~~person receiving~~
1492 ~~the transportation~~.

1493 c. From a financial settlement for medical care, treatment,
1494 hospitalization, or transportation payable or accruing to the
1495 injured party.

1496 (b) Any company that transports a patient pursuant to this
1497 subsection is considered an independent contractor and is solely
1498 liable for the safe and dignified transportation of the patient.
1499 Such company must be insured and provide no less than \$100,000
1500 in liability insurance with respect to the transportation of
1501 patients.

1502 (c) Any company that contracts with a governing board of a
1503 county to transport patients shall comply with the applicable
1504 rules of the department to ensure the safety and dignity of the
1505 patients.

1506 (d) When a law enforcement officer takes custody of a
1507 person pursuant to this part, the officer may request assistance
1508 from emergency medical personnel if such assistance is needed

576-02050B-15

20157070pb

1509 for the safety of the officer or the person in custody.

1510 (e) When a member of a mental health overlay program or a
1511 mobile crisis response service is a professional authorized to
1512 initiate an involuntary examination pursuant to s. 394.463 and
1513 that professional evaluates a person and determines that
1514 transportation to a receiving facility is needed, the service,
1515 at its discretion, may transport the person to the facility or
1516 may call on the law enforcement agency or other transportation
1517 arrangement best suited to the needs of the patient.

1518 (f) When a ~~any~~ law enforcement officer has custody of a
1519 person, based on ~~either noncriminal or minor criminal~~ behavior,
1520 a misdemeanor, or a felony other than a forcible felony as
1521 defined in s. 776.08, who ~~that~~ meets the statutory guidelines
1522 for involuntary examination under this part, the law enforcement
1523 officer shall transport the individual ~~person~~ to the nearest
1524 receiving facility for examination.

1525 (g) When any law enforcement officer has arrested a person
1526 for a forcible felony as defined in s. 776.08 and it appears
1527 that the person meets the criteria ~~statutory guidelines~~ for
1528 involuntary examination ~~or placement~~ under this part, such
1529 person shall first be processed in the same manner as any other
1530 criminal suspect. The law enforcement agency shall thereafter
1531 immediately notify the nearest public receiving facility, which
1532 shall be responsible for promptly arranging for the examination
1533 and treatment of the person. A receiving facility may not ~~is not~~
1534 ~~required to~~ admit a person charged with a forcible felony as
1535 defined in s. 776.08 ~~crime~~ for whom the facility determines and
1536 documents that it is unable to provide adequate security, but
1537 shall provide ~~mental health~~ examination and treatment to the

576-02050B-15

20157070pb

1538 person at the location where he or she is held.

1539 (h) If the appropriate law enforcement officer believes
1540 that a person has an emergency medical condition as defined in
1541 s. 395.002, the person may be first transported to a hospital
1542 for emergency medical treatment, regardless of whether the
1543 hospital is a designated receiving facility.

1544 (i) The costs of transportation, evaluation,
1545 hospitalization, and treatment incurred under this subsection by
1546 persons who have been arrested for violations of any state law
1547 or county or municipal ordinance may be recovered as provided in
1548 s. 901.35.

1549 (j) The nearest receiving facility must accept persons
1550 brought by law enforcement officers for involuntary examination.

1551 (k) Each law enforcement agency shall develop a memorandum
1552 of understanding with each receiving facility within the law
1553 enforcement agency's jurisdiction which reflects a single set of
1554 protocols for the safe and secure transportation of the person
1555 and transfer of custody of the person. These protocols must also
1556 address crisis intervention measures.

1557 (l) When a jurisdiction has entered into a contract with an
1558 emergency medical transport service or a private transport
1559 company for transportation of persons to receiving facilities,
1560 such service or company shall be given preference for
1561 transportation of persons from nursing homes, assisted living
1562 facilities, adult day care centers, or adult family-care homes,
1563 unless the behavior of the person being transported is such that
1564 transportation by a law enforcement officer is necessary.

1565 (m) Nothing in this section shall be construed to limit
1566 emergency examination and treatment of incapacitated persons

576-02050B-15

20157070pb

1567 provided in accordance with the provisions of s. 401.445.

1568 (n) Upon the request of an individual who appears to meet
1569 criteria for voluntary admission under s. 394.4625(1)(a), a law
1570 enforcement officer may transport him or her to a mental health
1571 receiving facility, addictions receiving facility, or
1572 detoxification facility.

1573 Section 11. Subsections (1), (4), and (5) of section
1574 394.4625, Florida Statutes, are amended and paragraph (c) of
1575 subsection (2) of that section is added, to read:

1576 394.4625 Voluntary admissions.—

1577 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE
1578 PATIENTS.—

1579 (a) In order to be admitted to a facility on a voluntary
1580 status ~~A facility may receive for observation, diagnosis, or~~
1581 ~~treatment: any person 18 years of age or older making~~
1582 ~~application by express and informed consent for admission or any~~
1583 ~~person age 17 or under for whom such application is made by his~~
1584 ~~or her guardian. If found to~~

1585 1. An individual must show evidence of mental illness or
1586 substance abuse impairment; and, to be competent to provide
1587 ~~express and informed consent, and to be suitable for treatment,~~
1588 ~~such person 18 years of age or older may be admitted to the~~
1589 ~~facility. A person age 17 or under may be admitted only after a~~
1590 ~~hearing to verify the voluntariness of the consent.~~

1591 2. An individual must be suitable for treatment by the
1592 facility.

1593 3. An adult must provide, and be competent to provide,
1594 express and informed consent.

1595 4. A minor may only be admitted on the basis of the express

576-02050B-15

20157070pb

1596 and informed consent of the minor's guardian in conjunction with
1597 the consent of the minor, except that a minor may be admitted to
1598 an addictions receiving facility or detoxification facility by
1599 his or her own consent without consent of the minor's guardian,
1600 if a physician documents in the clinical record that the minor
1601 has a substance abuse impairment. If the minor is admitted by
1602 his or her own consent and without consent of the minor's
1603 guardian, the facility must request the minor's permission to
1604 notify an adult family member or friend of the minor's voluntary
1605 admission into the facility.

1606 a. The consent of the minor is an affirmative agreement by
1607 the minor to remain at the facility for examination or
1608 treatment, and failure to object does not constitute consent.

1609 b. The minor's consent must be verified through a clinical
1610 assessment that is documented in the clinical record and
1611 conducted within 12 hours after arrival at the facility by a
1612 licensed professional authorized to initiate an involuntary
1613 examination pursuant to s. 394.463.

1614 c. In verifying the minor's consent, and using language
1615 that is appropriate to the minor's age, experience, maturity,
1616 and condition, the examining professional must provide the minor
1617 with an explanation as to why the minor will be examined and
1618 treated, what the minor can expect while in the facility, and
1619 when the minor may expect to be released. The examining
1620 professional must determine and document that the minor is able
1621 to understand the information.

1622 d. Unless the minor's consent is verified pursuant to this
1623 section, a petition for involuntary inpatient placement shall be
1624 filed with the court within 1 court working day after his or her

576-02050B-15

20157070pb

1625 arrival or the minor must be released to his or her guardian.

1626 (b) A mental health overlay program or a mobile crisis
1627 response service or a licensed professional who is authorized to
1628 initiate an involuntary examination pursuant to s. 394.463 and
1629 is employed by a community mental health center or clinic must,
1630 pursuant to district procedure approved by the respective
1631 district administrator, conduct an initial assessment of the
1632 ability of the following persons to give express and informed
1633 consent to treatment before such persons may be admitted
1634 voluntarily:

1635 1. A person 60 years of age or older for whom transfer is
1636 being sought from a nursing home, assisted living facility,
1637 adult day care center, or adult family-care home, when such
1638 person has been diagnosed as suffering from dementia.

1639 2. A person 60 years of age or older for whom transfer is
1640 being sought from a nursing home pursuant to s. 400.0255(12).

1641 3. A person for whom all decisions concerning medical
1642 treatment are currently being lawfully made by the health care
1643 surrogate or proxy designated under chapter 765.

1644 (c) When an initial assessment of the ability of a person
1645 to give express and informed consent to treatment is required
1646 under this section, and a mobile crisis response service does
1647 not respond to the request for an assessment within 2 hours
1648 after the request is made or informs the requesting facility
1649 that it will not be able to respond within 2 hours after the
1650 request is made, the requesting facility may arrange for
1651 assessment by any licensed professional authorized to initiate
1652 an involuntary examination pursuant to s. 394.463 who is not
1653 employed by or under contract with, and does not have a

576-02050B-15

20157070pb

1654 financial interest in, either the facility initiating the
1655 transfer or the receiving facility to which the transfer may be
1656 made.

1657 (d) A facility may not admit as a voluntary patient a
1658 person who has been adjudicated incapacitated, unless the
1659 condition of incapacity has been judicially removed. If a
1660 facility admits as a voluntary patient a person who is later
1661 determined to have been adjudicated incapacitated, and the
1662 condition of incapacity had not been removed by the time of the
1663 admission, the facility must either discharge the patient or
1664 transfer the patient to involuntary status.

1665 (e) The health care surrogate or proxy of an individual on
1666 a voluntary status ~~patient~~ may not consent to the provision of
1667 mental health treatment or substance abuse treatment for that
1668 individual ~~the patient~~. An individual on voluntary status ~~A~~
1669 ~~voluntary patient~~ who is unwilling or unable to provide express
1670 and informed consent to mental health treatment must ~~either~~ be
1671 discharged or transferred to involuntary status.

1672 (f) Within 24 hours after admission of a voluntary patient,
1673 the admitting physician shall document in the patient's clinical
1674 record that the patient is able to give express and informed
1675 consent for admission. If the patient is not able to give
1676 express and informed consent for admission, the facility shall
1677 either discharge the patient or transfer the patient to
1678 involuntary status pursuant to subsection (5).

1679 (2) RELEASE OR DISCHARGE OF VOLUNTARY PATIENTS.—

1680 (a) A facility shall discharge a voluntary patient:

1681 1. Who has sufficiently improved so that retention in the
1682 facility is no longer desirable. A patient may also be

576-02050B-15

20157070pb

1683 discharged to the care of a community facility.

1684 2. Who revokes consent to admission or requests discharge.
1685 A voluntary patient or a relative, friend, or attorney of the
1686 patient may request discharge either orally or in writing at any
1687 time following admission to the facility. The patient must be
1688 discharged within 24 hours of the request, unless the request is
1689 rescinded or the patient is transferred to involuntary status
1690 pursuant to this section. The 24-hour time period may be
1691 extended by a treatment facility when necessary for adequate
1692 discharge planning, but shall not exceed 3 days exclusive of
1693 weekends and holidays. If the patient, or another on the
1694 patient's behalf, makes an oral request for discharge to a staff
1695 member, such request shall be immediately entered in the
1696 patient's clinical record. If the request for discharge is made
1697 by a person other than the patient, the discharge may be
1698 conditioned upon the express and informed consent of the
1699 patient.

1700 (b) A voluntary patient who has been admitted to a facility
1701 and who refuses to consent to or revokes consent to treatment
1702 shall be discharged within 24 hours after such refusal or
1703 revocation, unless transferred to involuntary status pursuant to
1704 this section or unless the refusal or revocation is freely and
1705 voluntarily rescinded by the patient.

1706 (c) An individual on voluntary status who is currently
1707 charged with a crime shall be returned to the custody of a law
1708 enforcement officer upon release or discharge from a facility,
1709 unless the individual has been released from law enforcement
1710 custody by posting of a bond, by a pretrial conditional release,
1711 or by other judicial release.

576-02050B-15

20157070pb

1712 (4) TRANSFER TO VOLUNTARY STATUS.—An individual on
1713 involuntary status ~~patient~~ who has been assessed and certified
1714 by a physician or psychologist as competent to provide express
1715 and informed consent and who applies to be transferred to
1716 voluntary status shall be transferred to voluntary status
1717 immediately, unless the individual ~~patient~~ ~~has been charged with~~
1718 ~~a crime, or~~ has been involuntarily placed for treatment by a
1719 court pursuant to s. 394.467 and continues to meet the criteria
1720 for involuntary placement. When transfer to voluntary status
1721 occurs, notice shall be given as provided in s. 394.4599.

1722 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on
1723 ~~When a~~ voluntary status ~~patient~~, or an authorized person on the
1724 individual's ~~patient's~~ behalf, makes a request for discharge,
1725 the request for discharge, unless freely and voluntarily
1726 rescinded, must be communicated to a physician, ~~elinical~~
1727 psychologist, or psychiatrist as quickly as possible within, ~~but~~
1728 ~~not later than~~ 12 hours after the request is made. If the
1729 individual ~~patient~~ meets the criteria for involuntary placement,
1730 the individual must be transferred to a designated receiving
1731 facility and the administrator of the receiving facility where
1732 the individual is held must file with the court a petition for
1733 involuntary placement, within 2 court working days after the
1734 request ~~for discharge~~ is made. If the petition is not filed
1735 within 2 court working days, the individual must ~~patient shall~~
1736 be discharged. Pending the filing of the petition, the
1737 individual ~~patient~~ may be held and emergency mental health
1738 treatment rendered in the least restrictive manner, upon the
1739 written order of a physician, if it is determined that such
1740 treatment is necessary for the safety of the individual ~~patient~~

576-02050B-15

20157070pb

1741 or others.

1742 Section 12. Section 394.463, Florida Statutes, is amended
1743 to read:

1744 394.463 Involuntary examination.—

1745 (1) CRITERIA.—A person may be subject to an ~~taken to a~~
1746 ~~receiving facility for~~ involuntary examination if there is
1747 reason to believe that he or she ~~the person~~ has a mental illness
1748 or substance abuse impairment and because of this ~~his or her~~
1749 mental illness or substance abuse impairment:

1750 (a)1. The person has refused voluntary examination after
1751 conscientious explanation and disclosure of the purpose of the
1752 examination; or

1753 2. The person is unable to determine for himself or herself
1754 whether examination is necessary; and

1755 (b)1. Without care or treatment, the person is likely to
1756 suffer from neglect or refuse to care for himself or herself;
1757 such neglect or refusal poses a real and present threat of
1758 substantial harm to his or her well-being; and it is not
1759 apparent that such harm may be avoided through the help of
1760 willing family members or friends or the provision of other
1761 services; or

1762 2. There is a substantial likelihood that without care or
1763 treatment the person will cause serious bodily harm to himself
1764 or herself or others in the near future, as evidenced by recent
1765 behavior.

1766 (2) INVOLUNTARY EXAMINATION.—

1767 (a) An involuntary examination may be initiated by any one
1768 of the following means:

1769 1. A court may enter an ex parte order stating that an

576-02050B-15

20157070pb

1770 individual ~~a person~~ appears to meet the criteria for involuntary
1771 examination, giving the findings on which that conclusion is
1772 based. The ex parte order for involuntary examination must be
1773 based on sworn testimony, written or oral, which includes
1774 specific facts that support the finding that the criteria have
1775 been met. Any behavior relied on for the issuance of an ex parte
1776 order must have occurred within the preceding 7 calendar days.
1777 The order must specify whether the individual must be taken to a
1778 mental health facility, detoxification facility, or addictions
1779 receiving facility. ~~If other less restrictive means are not~~
1780 ~~available, such as voluntary appearance for outpatient~~
1781 ~~evaluation,~~ A law enforcement officer, or other designated agent
1782 of the court, shall take the individual ~~person~~ into custody and
1783 deliver him or her to the nearest ~~receiving~~ facility of the type
1784 specified in the order for involuntary examination. However, if
1785 the county in which the individual is taken into custody has a
1786 transportation exception plan specifying a central receiving
1787 facility, the law enforcement officer shall transport the
1788 individual to the central receiving facility pursuant to the
1789 plan. ~~The order of the court~~ order must ~~shall~~ be made a part of
1790 the ~~patient's~~ clinical record. A ~~No~~ fee may not ~~shall~~ be charged
1791 for the filing of an order under this subsection. Any ~~receiving~~
1792 facility accepting the individual ~~patient~~ based on the court's
1793 ~~this~~ order must send a copy of the order to the Agency for
1794 Health Care Administration on the next working day. The order is
1795 ~~shall be~~ valid only until executed or, if not executed, for the
1796 period specified in the order itself. If no time limit is
1797 specified in the order, the order is ~~shall be~~ valid for 7 days
1798 after the date it ~~that the order~~ was signed.

576-02050B-15

20157070pb

1799 2. A law enforcement officer shall take a person who
1800 appears to meet the criteria for involuntary examination into
1801 custody and deliver ~~the person or have~~ him or her ~~delivered~~ to
1802 the nearest mental health receiving facility, addictions
1803 receiving facility, or detoxification facility, whichever the
1804 officer determines is most appropriate for examination. However,
1805 if the county in which the individual taken into custody has a
1806 transportation exception plan specifying a central receiving
1807 facility, the law enforcement officer shall transport the
1808 individual to the central receiving facility pursuant to the
1809 plan. The officer shall complete ~~execute~~ a written report
1810 detailing the circumstances under which the individual ~~person~~
1811 was taken into custody, ~~and~~ The report shall be made a part of
1812 the patient's clinical record. Any receiving facility or
1813 detoxification facility accepting the individual ~~patient~~ based
1814 on the ~~this~~ report must send a copy of the report to the Agency
1815 for Health Care Administration on the next working day.

1816 3. A physician, physician assistant, clinical psychologist,
1817 advanced registered nurse practitioner certified pursuant to s.
1818 464.012, psychiatric nurse, mental health counselor, marriage
1819 and family therapist, or clinical social worker may execute a
1820 certificate stating that he or she has examined the individual ~~a~~
1821 ~~person~~ within the preceding 48 hours and finds that the
1822 individual ~~person~~ appears to meet the criteria for involuntary
1823 examination and stating the observations upon which that
1824 conclusion is based. The certificate must specify whether the
1825 individual is to be taken to a mental health receiving facility,
1826 an addictions receiving facility, or a detoxification facility,
1827 and must include specific facts supporting the conclusion that

576-02050B-15

20157070pb

1828 the individual would benefit from services provided by the type
1829 of facility specified. If other less restrictive means are not
1830 available, such as voluntary appearance for outpatient
1831 evaluation, A law enforcement officer shall take the individual
1832 person named in the certificate into custody and deliver him or
1833 her to the nearest receiving facility of the type specified in
1834 the certificate for involuntary examination. However, if the
1835 county in which the individual is taken into custody has a
1836 transportation exception plan specifying a central receiving
1837 facility, the law enforcement officer shall transport the
1838 individual to the central receiving facility pursuant to the
1839 plan. A law enforcement officer may only take an individual into
1840 custody on the basis of a certificate within 7 calendar days
1841 after execution of the certificate. The law enforcement officer
1842 shall complete ~~execute~~ a written report detailing the
1843 circumstances under which the individual ~~person~~ was taken into
1844 custody. The report and certificate shall be made a part of the
1845 ~~patient's~~ clinical record. Any receiving facility accepting the
1846 individual ~~patient~~ based on the ~~this~~ certificate must send a
1847 copy of the certificate to the Agency for Health Care
1848 Administration on the next working day.

1849 (b) An individual may ~~A person shall~~ not be removed from a
1850 ~~any~~ program or residential placement licensed under chapter 400
1851 or chapter 429 and transported to a receiving facility for
1852 involuntary examination unless an ex parte order, a professional
1853 certificate, or a law enforcement officer's report is first
1854 prepared. If the condition of the individual ~~person~~ is such that
1855 preparation of a law enforcement officer's report is not
1856 practicable before removal, the report must ~~shall~~ be completed

576-02050B-15

20157070pb

1857 as soon as possible after removal, but ~~in any case~~ before the
1858 individual ~~person~~ is transported to a receiving facility. A
1859 receiving facility admitting an individual ~~a person~~ for
1860 involuntary examination who is not accompanied by the required
1861 ex parte order, professional certificate, or law enforcement
1862 officer's report must ~~shall~~ notify the Agency for Health Care
1863 Administration of such admission by certified mail by no later
1864 ~~than~~ the next working day. ~~The provisions of this paragraph do~~
1865 ~~not apply when transportation is provided by the patient's~~
1866 ~~family or guardian.~~

1867 (c) A law enforcement officer acting in accordance with an
1868 ex parte order issued pursuant to this subsection may serve and
1869 execute such order on any day of the week, at any time of the
1870 day or night.

1871 (d) A law enforcement officer acting in accordance with an
1872 ex parte order issued pursuant to this subsection may use such
1873 reasonable physical force as is necessary to gain entry to the
1874 premises, and any dwellings, buildings, or other structures
1875 located on the premises, and to take custody of the person who
1876 is the subject of the ex parte order.

1877 (e) Petitions and ~~The Agency for Health Care Administration~~
1878 ~~shall receive and maintain the copies of ex parte orders,~~
1879 ~~involuntary outpatient placement orders,~~ involuntary outpatient
1880 placement petitions and orders issued pursuant to s. 394.4655,
1881 involuntary inpatient placement petitions and orders issued
1882 pursuant to s. 394.467, professional certificates, and law
1883 enforcement officers' reports are. ~~These documents shall be~~
1884 ~~considered part of the clinical record,~~ governed by ~~the~~
1885 ~~provisions of s. 394.4615.~~ The agency shall prepare annual

576-02050B-15

20157070pb

1886 reports analyzing the data obtained from these documents,
1887 without information identifying individuals held for examination
1888 or admitted for mental health and substance abuse treatment
1889 ~~patients~~, and shall provide copies of reports to the department,
1890 the President of the Senate, the Speaker of the House of
1891 Representatives, and the minority leaders of the Senate and the
1892 House of Representatives.

1893 (f) An individual held for examination ~~A patient~~ shall be
1894 examined by a physician, a ~~or~~ clinical psychologist, or a
1895 psychiatric nurse at a receiving facility without unnecessary
1896 delay and may, upon the order of a physician, be given emergency
1897 mental health treatment if it is determined that such treatment
1898 is necessary for the safety of the individual ~~patient~~ or others.
1899 ~~The patient may not be released by the receiving facility or its~~
1900 ~~contractor without the documented approval of a psychiatrist, a~~
1901 ~~clinical psychologist, or, if the receiving facility is a~~
1902 ~~hospital, the release may also be approved by an attending~~
1903 ~~emergency department physician with experience in the diagnosis~~
1904 ~~and treatment of mental and nervous disorders and after~~
1905 ~~completion of an involuntary examination pursuant to this~~
1906 ~~subsection. However, a patient may not be held in a receiving~~
1907 ~~facility for involuntary examination longer than 72 hours.~~

1908 (g) An individual may not be held for involuntary
1909 examination for more than 72 hours from the time of the
1910 individual's arrival at the facility, except that this period
1911 may be extended by 48 hours if a physician documents in the
1912 clinical record that the individual has ongoing symptoms of
1913 substance intoxication or substance withdrawal and the
1914 individual would likely experience significant clinical benefit

576-02050B-15

20157070pb

1915 from detoxification services. This determination must be made
1916 based on a face-to-face examination conducted by the physician
1917 no less than 48 hours and not more than 72 hours after the
1918 individual's arrival at the facility. Based on the individual's
1919 needs, one of the following actions must be taken within the
1920 involuntary examination period:

1921 1. The individual shall be released with the approval of a
1922 psychiatrist, psychiatric nurse, or psychologist. However, if
1923 the examination is conducted in a hospital, an emergency
1924 department physician may approve the release. If the examination
1925 is conducted in an addictions receiving facility or
1926 detoxification facility, a physician may approve release. The
1927 professional approving release must have personally conducted
1928 the involuntary examination;

1929 2. The individual shall be asked to provide express and
1930 informed consent for voluntary admission if a physician or
1931 psychologist has determined that the individual is competent to
1932 consent to treatment; or

1933 3. A petition for involuntary placement shall be completed
1934 and filed in the circuit court by the receiving facility
1935 administrator if involuntary outpatient or inpatient placement
1936 is deemed necessary. If the 72-hour period ends on a weekend or
1937 legal holiday, the petition must be filed by the next working
1938 day. If inpatient placement is deemed necessary, the least
1939 restrictive treatment consistent with the optimum improvement of
1940 the individual's condition must be made available.

1941 (h) An individual released from a receiving or treatment
1942 facility on a voluntary or involuntary basis who is currently
1943 charged with a crime shall be returned to the custody of law

576-02050B-15

20157070pb

1944 enforcement, unless the individual has been released from law
1945 enforcement custody by posting of a bond, by a pretrial
1946 conditional release, or by other judicial release.

1947 (i) If an individual ~~A person~~ for whom an involuntary
1948 examination has been initiated ~~who~~ is being evaluated or treated
1949 at a hospital for an emergency medical condition specified in s.
1950 395.002 the involuntary examination period must be examined by a
1951 receiving facility within 72 hours. The 72-hour period begins
1952 when the individual patient arrives at the hospital and ceases
1953 when a the attending physician documents that the individual
1954 patient has an emergency medical condition. The 72-hour period
1955 resumes when the physician documents that the emergency medical
1956 condition has stabilized or does not exist. If the patient is
1957 examined at a hospital providing emergency medical services by a
1958 professional qualified to perform an involuntary examination and
1959 is found as a result of that examination not to meet the
1960 criteria for involuntary outpatient placement pursuant to s.
1961 394.4655(1) or involuntary inpatient placement pursuant to s.
1962 394.467(1), the patient may be offered voluntary placement, if
1963 appropriate, or released directly from the hospital providing
1964 emergency medical services. The finding by the professional that
1965 the patient has been examined and does not meet the criteria for
1966 involuntary inpatient placement or involuntary outpatient
1967 placement must be entered into the patient's clinical record.
1968 Nothing in this paragraph is intended to prevent A hospital
1969 providing emergency medical services may transfer an individual
1970 from appropriately transferring a patient to another hospital
1971 before prior to stabilization if, provided the requirements of
1972 s. 395.1041(3) (c) are have been met. One of the following

576-02050B-15

20157070pb

1973 actions must occur within 12 hours after a physician documents
1974 that the individual's emergency medical condition has stabilized
1975 or does not exist:

1976 ~~(h) One of the following must occur within 12 hours after~~
1977 ~~the patient's attending physician documents that the patient's~~
1978 ~~medical condition has stabilized or that an emergency medical~~
1979 ~~condition does not exist:~~

1980 1. The individual shall be examined by a physician,
1981 psychiatric nurse or psychologist and, if found not to meet the
1982 criteria for involuntary examination pursuant to s. 394.463,
1983 shall be released directly from the hospital providing the
1984 emergency medical services. The results of the examination,
1985 including the final disposition, shall be entered into the
1986 clinical records; or

1987 2. The individual shall be transferred to a receiving
1988 facility for examination if appropriate medical and mental
1989 health treatment is available. However, the receiving facility
1990 must be notified of the transfer within 2 hours after the
1991 individual's condition has been stabilized or after
1992 determination that an emergency medical condition does not
1993 exist. The patient must be examined by a designated receiving
1994 facility and released; or

1995 ~~2. The patient must be transferred to a designated~~
1996 ~~receiving facility in which appropriate medical treatment is~~
1997 ~~available. However, the receiving facility must be notified of~~
1998 ~~the transfer within 2 hours after the patient's condition has~~
1999 ~~been stabilized or after determination that an emergency medical~~
2000 ~~condition does not exist.~~

2001 ~~(i) Within the 72-hour examination period or, if the 72~~

576-02050B-15

20157070pb

2002 ~~hours ends on a weekend or holiday, no later than the next~~
2003 ~~working day thereafter, one of the following actions must be~~
2004 ~~taken, based on the individual needs of the patient:~~

2005 ~~1. The patient shall be released, unless he or she is~~
2006 ~~charged with a crime, in which case the patient shall be~~
2007 ~~returned to the custody of a law enforcement officer;~~

2008 ~~2. The patient shall be released, subject to the provisions~~
2009 ~~of subparagraph 1., for voluntary outpatient treatment;~~

2010 ~~3. The patient, unless he or she is charged with a crime,~~
2011 ~~shall be asked to give express and informed consent to placement~~
2012 ~~as a voluntary patient, and, if such consent is given, the~~
2013 ~~patient shall be admitted as a voluntary patient; or~~

2014 ~~4. A petition for involuntary placement shall be filed in~~
2015 ~~the circuit court when outpatient or inpatient treatment is~~
2016 ~~deemed necessary. When inpatient treatment is deemed necessary,~~
2017 ~~the least restrictive treatment consistent with the optimum~~
2018 ~~improvement of the patient's condition shall be made available.~~
2019 ~~When a petition is to be filed for involuntary outpatient~~
2020 ~~placement, it shall be filed by one of the petitioners specified~~
2021 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~
2022 ~~placement shall be filed by the facility administrator.~~

2023 (3) NOTICE OF RELEASE.—Notice of the release shall be given
2024 to the individual's ~~patient's~~ guardian, health care surrogate or
2025 proxy, or representative, to any person who executed a
2026 certificate admitting the individual ~~patient~~ to the receiving
2027 facility, and to any court that ~~which~~ ordered the individual's
2028 examination ~~patient's~~ evaluation.

2029 Section 13. Section 394.4655, Florida Statutes, is amended
2030 to read:

576-02050B-15

20157070pb

2031 394.4655 Involuntary outpatient placement.—

2032 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT PLACEMENT.—An
 2033 individual ~~A person~~ may be ordered to involuntary outpatient
 2034 placement upon a finding of the court ~~that~~ by clear and
 2035 convincing evidence that:

2036 (a) The individual is an adult ~~person is 18 years of age or~~
 2037 ~~older~~;

2038 (b) The individual ~~person~~ has a mental illness or substance
 2039 abuse impairment;

2040 (c) The individual ~~person~~ is unlikely to survive safely in
 2041 the community without supervision, based on a clinical
 2042 determination;

2043 (d) The individual ~~person~~ has a history of lack of
 2044 compliance with treatment for mental illness or substance abuse
 2045 impairment;

2046 (e) The individual ~~person~~ has:

2047 1. Within ~~At least twice within~~ the immediately preceding
 2048 36 months, been involuntarily admitted to a receiving or
 2049 treatment facility ~~as defined in s. 394.455~~, or has received
 2050 mental health or substance abuse services in a forensic or
 2051 correctional facility. The 36-month period does not include any
 2052 period during which the individual ~~person~~ was admitted or
 2053 incarcerated; or

2054 2. Engaged in one or more acts of serious violent behavior
 2055 toward self or others, or attempts at serious bodily harm to
 2056 himself or herself or others, within the preceding 36 months;

2057 (f) Due to ~~The person is, as a result of~~ his or her mental
 2058 illness or substance abuse impairment, the individual is
 2059 unlikely to voluntarily participate in the recommended treatment

576-02050B-15

20157070pb

2060 plan and ~~either he or she~~ has refused voluntary placement for
2061 treatment after sufficient and conscientious explanation and
2062 disclosure of the purpose of placement for treatment or ~~he or~~
2063 ~~she~~ is unable to determine for himself or herself whether
2064 placement is necessary;

2065 (g) In view of the individual's ~~person's~~ treatment history
2066 and current behavior, the individual ~~person~~ is in need of
2067 involuntary outpatient placement in order to prevent a relapse
2068 or deterioration that would be likely to result in serious
2069 bodily harm to self ~~himself or herself~~ or others, or a
2070 substantial harm to his or her well-being as set forth in s.
2071 394.463(1);

2072 (h) It is likely that the individual ~~person~~ will benefit
2073 from involuntary outpatient placement; and

2074 (i) All available, less restrictive alternatives that ~~would~~
2075 offer an opportunity for improvement of his or her condition
2076 have been judged to be inappropriate or unavailable.

2077 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

2078 (a) ~~1. An individual A patient~~ who is being recommended for
2079 involuntary outpatient placement by the administrator of the
2080 receiving facility where he or she ~~the patient~~ has been examined
2081 may be retained by the facility after adherence to the notice
2082 procedures provided in s. 394.4599.

2083 1. The recommendation must be supported by the opinion of a
2084 psychiatrist and the second opinion of a ~~clinical~~ psychologist
2085 or another psychiatrist, both of whom have personally examined
2086 the individual ~~patient~~ within the preceding 72 hours, that the
2087 criteria for involuntary outpatient placement are met. However,
2088 in a county having a population of fewer than 50,000, if the

576-02050B-15

20157070pb

2089 administrator certifies that a psychiatrist or clinical
2090 psychologist is not available to provide the second opinion, the
2091 second opinion may be provided by a ~~licensed~~ physician who has
2092 postgraduate training and experience in diagnosis and treatment
2093 of mental and nervous disorders or by a psychiatric nurse. Any
2094 second opinion authorized in this subparagraph may be conducted
2095 through a face-to-face examination, in person or by electronic
2096 means. Such recommendation must be entered on an involuntary
2097 outpatient placement certificate that authorizes the receiving
2098 facility to retain the individual patient pending completion of
2099 a hearing. The certificate shall be made a part of the patient's
2100 clinical record.

2101 2. If the individual patient has been stabilized and no
2102 longer meets the criteria for involuntary examination pursuant
2103 to s. 394.463(1), he or she ~~the patient~~ must be released from
2104 the receiving facility while awaiting the hearing for
2105 involuntary outpatient placement.

2106 3. Before filing a petition for involuntary outpatient
2107 treatment, the administrator of the ~~a~~ receiving facility or a
2108 designated department representative must identify the service
2109 provider that will have primary responsibility for service
2110 provision under an order for involuntary outpatient placement,
2111 unless the individual person is otherwise participating in
2112 outpatient psychiatric treatment and is not in need of public
2113 financing for that treatment, in which case the individual, if
2114 eligible, may be ordered to involuntary treatment pursuant to
2115 the existing psychiatric treatment relationship.

2116 ~~4.3.~~ The service provider shall prepare a written proposed
2117 treatment plan in consultation with the individual being held

576-02050B-15

20157070pb

2118 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if
2119 appointed, for the court's consideration for inclusion in the
2120 involuntary outpatient placement order. The service provider
2121 shall ~~also~~ provide a copy of the proposed treatment plan to the
2122 individual patient and the administrator of the receiving
2123 facility. The treatment plan must specify the nature and extent
2124 of the individual's ~~patient's~~ mental illness or substance abuse
2125 impairment, address the reduction of symptoms that necessitate
2126 involuntary outpatient placement, and include measurable goals
2127 and objectives for the services and treatment that are provided
2128 to treat the individual's ~~person's~~ mental illness or substance
2129 abuse impairment and assist the individual ~~person~~ in living and
2130 functioning in the community or to prevent a relapse or
2131 deterioration. Service providers may select and supervise other
2132 providers ~~individuals~~ to implement specific aspects of the
2133 treatment plan. The services in the treatment plan must be
2134 deemed clinically appropriate by a physician, ~~clinical~~
2135 psychologist, psychiatric nurse, mental health counselor,
2136 marriage and family therapist, or clinical social worker who
2137 consults with, or is employed or contracted by, the service
2138 provider. The service provider must certify to the court in the
2139 proposed treatment plan whether sufficient services for
2140 improvement and stabilization are currently available and
2141 whether the service provider agrees to provide those services.
2142 If the service provider certifies that the services in the
2143 proposed treatment plan are not available, the petitioner may
2144 not file the petition.

2145 (b) If an individual ~~a patient~~ in involuntary inpatient
2146 placement meets the criteria for involuntary outpatient

576-02050B-15

20157070pb

2147 placement, the administrator of the treatment facility may,
2148 before the expiration of the period during which the treatment
2149 facility is authorized to retain the individual ~~patient~~,
2150 recommend involuntary outpatient placement.

2151 1. The recommendation must be supported by the opinion of a
2152 psychiatrist and the second opinion of a ~~clinical~~ psychologist
2153 or another psychiatrist, both of whom have personally examined
2154 the individual ~~patient~~ within the preceding 72 hours, that the
2155 criteria for involuntary outpatient placement are met. However,
2156 in a county having a population of fewer than 50,000, if the
2157 administrator certifies that a psychiatrist or ~~clinical~~
2158 psychologist is not available to provide the second opinion, the
2159 second opinion may be provided by a licensed physician who has
2160 postgraduate training and experience in diagnosis and treatment
2161 of mental and nervous disorders or by a psychiatric nurse. Any
2162 second opinion authorized in this subparagraph may be conducted
2163 through a face-to-face examination, in person or by electronic
2164 means. Such recommendation must be entered on an involuntary
2165 outpatient placement certificate, and the certificate must be
2166 made a part of the individual's ~~patient's~~ clinical record.

2167 ~~2.(e)1.~~ The administrator of the treatment facility shall
2168 provide a copy of the involuntary outpatient placement
2169 certificate and a copy of the state mental health discharge form
2170 to a department representative in the county where the
2171 individual ~~patient~~ will be residing. ~~For persons who are leaving~~
2172 ~~a state mental health treatment facility, the petition for~~
2173 ~~involuntary outpatient placement must be filed in the county~~
2174 ~~where the patient will be residing.~~

2175 ~~3.2.~~ The service provider that will have primary

576-02050B-15

20157070pb

2176 responsibility for service provision shall be identified by the
 2177 designated department representative prior to the order for
 2178 involuntary outpatient placement and must, before ~~prior to~~
 2179 filing a petition for involuntary outpatient placement, certify
 2180 to the court whether the services recommended in the
 2181 individual's ~~patient's~~ discharge plan are available in the local
 2182 community and whether the service provider agrees to provide
 2183 those services. The service provider must develop with the
 2184 individual ~~patient~~, or the patient's guardian advocate, if one
 2185 is appointed, a treatment or service plan that addresses the
 2186 needs identified in the discharge plan. The plan must be deemed
 2187 to be clinically appropriate by a physician, ~~clinical~~
 2188 psychologist, psychiatric nurse, mental health counselor,
 2189 marriage and family therapist, or clinical social worker, ~~as~~
 2190 ~~defined in this chapter~~, who consults with, or is employed or
 2191 contracted by, the service provider.

2192 ~~3. If the service provider certifies that the services in~~
 2193 ~~the proposed treatment or service plan are not available, the~~
 2194 ~~petitioner may not file the petition.~~

2195 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

2196 (a) A petition for involuntary outpatient placement may be
 2197 filed by:

2198 1. The administrator of a mental health receiving facility,
 2199 an addictions receiving facility, or a detoxification facility;
 2200 or

2201 2. The administrator of a treatment facility.

2202 (b) Each required criterion for involuntary outpatient
 2203 placement must be alleged and substantiated in the petition for
 2204 involuntary outpatient placement. A copy of the certificate

576-02050B-15

20157070pb

2205 recommending involuntary outpatient placement completed by a
2206 qualified professional specified in subsection (2) must be
2207 attached to the petition. A copy of the proposed treatment plan
2208 must be attached to the petition. Before the petition is filed,
2209 the service provider shall certify that the services in the
2210 proposed treatment plan are available. If the necessary services
2211 are not available in the ~~patient's~~ local community where the
2212 individual will reside ~~to respond to the person's individual~~
2213 ~~needs~~, the petition may not be filed.

2214 (c) A ~~The~~ petition for involuntary outpatient placement
2215 must be filed in the county where the individual who is the
2216 subject of the petition ~~patient~~ is located, unless the
2217 individual ~~patient~~ is being placed from a state treatment
2218 facility, in which case the petition must be filed in the county
2219 where the individual ~~patient~~ will reside. When the petition is
2220 ~~has been~~ filed, the clerk of the court shall provide copies of
2221 the petition and the proposed treatment plan to the department,
2222 the individual ~~patient~~, the individual's ~~patient's~~ guardian,
2223 guardian advocate, health care surrogate or proxy, or
2224 representative, the state attorney, and the public defender or
2225 the individual's ~~patient's~~ private counsel. A fee may not be
2226 charged for filing a petition under this subsection.

2227 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
2228 after ~~the~~ filing of a petition for involuntary outpatient
2229 placement, the court shall appoint the public defender to
2230 represent the individual ~~person~~ who is the subject of the
2231 petition, unless the individual ~~person~~ is otherwise represented
2232 by counsel. The clerk of the court shall immediately notify the
2233 public defender of the appointment. The public defender shall

576-02050B-15

20157070pb

2234 represent the individual ~~person~~ until the petition is dismissed,
2235 the court order expires, or the individual ~~patient~~ is discharged
2236 from involuntary outpatient placement. An attorney who
2237 represents the individual ~~patient~~ shall have access to the
2238 individual ~~patient~~, witnesses, and records relevant to the
2239 presentation of the individual's ~~patient's~~ case and shall
2240 represent the interests of the individual ~~patient~~, regardless of
2241 the source of payment to the attorney. An attorney representing
2242 an individual in proceedings under this part shall advocate the
2243 individual's expressed desires and must be present and actively
2244 participate in all hearings on involuntary placement. If the
2245 individual is unable or unwilling to express his or her desires
2246 to the attorney, the attorney shall proceed as though the
2247 individual expressed a desire for liberty, opposition to
2248 involuntary placement and, if placement is ordered, a preference
2249 for the least restrictive treatment possible.

2250 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
2251 the concurrence of the patient's counsel, to at least one
2252 continuance of the hearing. The continuance shall be for a
2253 period of up to 4 weeks.

2254 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

2255 (a) ~~1.~~ The court shall hold the hearing on involuntary
2256 outpatient placement within 5 court working days after the
2257 filing of the petition, unless a continuance is granted. The
2258 hearing shall be held in the county where the petition is filed,
2259 ~~shall~~ be as convenient to the individual who is the subject of
2260 the petition ~~patient~~ as is consistent with orderly procedure,
2261 and ~~shall~~ be conducted in physical settings not likely to be
2262 injurious to the individual's ~~patient's~~ condition. If the court

576-02050B-15

20157070pb

2263 finds that the individual's ~~patient's~~ attendance at the hearing
2264 is not consistent with the best interests of the individual
2265 ~~patient~~ and if the individual's ~~patient's~~ counsel does not
2266 object, the court may waive the presence of the individual
2267 ~~patient~~ from all or any portion of the hearing. The state
2268 attorney for the circuit in which the individual ~~patient~~ is
2269 located shall represent the state, rather than the petitioner,
2270 as the real party in interest in the proceeding. The state
2271 attorney shall have access to the individual's clinical record
2272 and witnesses and shall independently evaluate and confirm the
2273 allegations set forth in the petition for involuntary placement.
2274 If the allegations are substantiated, the state attorney shall
2275 prosecute the petition. If the allegations are not
2276 substantiated, the state attorney shall withdraw the petition.

2277 (b)2. The court may appoint a magistrate ~~master~~ to preside
2278 at the hearing. One of the professionals who executed the
2279 involuntary outpatient placement certificate shall be a witness.
2280 The individual who is the subject of the petition ~~patient~~ and
2281 his or her ~~the patient's~~ guardian, guardian advocate, health
2282 care surrogate or proxy, or representative shall be informed by
2283 the court of the right to an independent expert examination. If
2284 the individual ~~patient~~ cannot afford such an examination, the
2285 court shall provide ~~for~~ one. The independent expert's report is
2286 ~~shall be~~ confidential and not discoverable, unless the expert is
2287 ~~to be~~ called as a witness for the individual ~~patient~~ at the
2288 hearing. The court shall allow testimony from persons
2289 individuals, including family members, deemed by the court to be
2290 relevant ~~under state law,~~ regarding the individual's ~~person's~~
2291 prior history and how that ~~prior~~ history relates to the

576-02050B-15

20157070pb

2292 individual's ~~person's~~ current condition. The testimony in the
2293 hearing must be ~~given~~ under oath, and the proceedings must be
2294 recorded. The individual ~~patient~~ may refuse to testify at the
2295 hearing.

2296 (c) The court shall consider testimony and evidence
2297 regarding the competence of the individual being held to consent
2298 to treatment. If the court finds that the individual is
2299 incompetent to consent, it shall appoint a guardian advocate as
2300 provided in s. 394.4598.

2301 (7) COURT ORDER.-

2302 (a) ~~(b)1.~~ If the court concludes that the individual who is
2303 the subject of the petition ~~patient~~ meets the criteria for
2304 involuntary outpatient placement under ~~pursuant to~~ subsection
2305 (1), the court shall issue an order for involuntary outpatient
2306 placement. The court order may ~~shall~~ be for a ~~period of~~ up to 6
2307 months. The order must specify the nature and extent of the
2308 individual's ~~patient's~~ mental illness or substance abuse
2309 impairment. The court order ~~of the court~~ and the treatment plan
2310 must ~~shall~~ be made part of the individual's ~~patient's~~ clinical
2311 record. The service provider shall discharge an individual ~~a~~
2312 ~~patient~~ from involuntary outpatient placement when the order
2313 expires or any time the individual ~~patient~~ no longer meets the
2314 criteria for involuntary placement. Upon discharge, the service
2315 provider shall send a certificate of discharge to the court.

2316 (b)2. The court may not order the department or the service
2317 provider to provide services if the program or service is not
2318 available in the ~~patient's~~ local community of the individual
2319 being served, if there is no space available in the program or
2320 service for the individual ~~patient,~~ or if funding is not

576-02050B-15

20157070pb

2321 available for the program or service. A copy of the order must
2322 be sent to the Agency for Health Care Administration by the
2323 service provider within 1 working day after it is received from
2324 the court. After the placement order is issued, the service
2325 provider and the individual patient may modify ~~provisions of~~ the
2326 treatment plan. For any material modification of the treatment
2327 plan to which the individual patient or the individual's
2328 ~~patient's~~ guardian advocate, if appointed, does agree, the
2329 service provider shall send notice of the modification to the
2330 court. Any material modifications of the treatment plan which
2331 are contested by the individual patient or the individual's
2332 ~~patient's~~ guardian advocate, if appointed, must be approved or
2333 disapproved by the court consistent with the requirements of
2334 subsection (2).

2335 (c)3- If, in the clinical judgment of a physician, the
2336 individual being served patient has failed or has refused to
2337 comply with the treatment ordered by the court, and, in the
2338 clinical judgment of the physician, efforts were made to solicit
2339 compliance and the individual patient may meet the criteria for
2340 involuntary examination, the individual ~~a person~~ may be brought
2341 to a receiving facility pursuant to s. 394.463 for involuntary
2342 examination. If, after examination, the individual patient does
2343 not meet the criteria for involuntary inpatient placement
2344 pursuant to s. 394.467, the individual patient must be
2345 discharged from the receiving facility. The involuntary
2346 outpatient placement order remains ~~shall remain~~ in effect unless
2347 the service provider determines that the individual patient no
2348 longer meets the criteria for involuntary outpatient placement
2349 or until the order expires. The service provider must determine

576-02050B-15

20157070pb

2350 whether modifications should be made to the existing treatment
2351 plan and must attempt to continue to engage the individual
2352 ~~patient~~ in treatment. For any material modification of the
2353 treatment plan to which the individual ~~patient~~ or the
2354 individual's ~~patient's~~ guardian advocate, if appointed, agrees
2355 ~~does agree~~, the service provider shall send notice of the
2356 modification to the court. Any material modifications of the
2357 treatment plan which are contested by the individual ~~patient~~ or
2358 the individual's ~~patient's~~ guardian advocate, if appointed, must
2359 be approved or disapproved by the court consistent with the
2360 requirements of subsection (2).

2361 ~~(d)(e)~~ If, at any time before the conclusion of the initial
2362 hearing on involuntary outpatient placement, it appears to the
2363 court that the individual ~~person~~ does not meet the criteria for
2364 involuntary outpatient placement under this section but,
2365 ~~instead~~, meets the criteria for involuntary inpatient placement,
2366 the court may order the individual ~~person~~ admitted for
2367 involuntary inpatient examination under s. 394.463. ~~If the~~
2368 ~~person instead meets the criteria for involuntary assessment,~~
2369 ~~protective custody, or involuntary admission pursuant to s.~~
2370 ~~397.675, the court may order the person to be admitted for~~
2371 ~~involuntary assessment for a period of 5 days pursuant to s.~~
2372 ~~397.6811. Thereafter, all proceedings shall be governed by~~
2373 ~~chapter 397.~~

2374 ~~(d)~~ At the hearing on involuntary outpatient placement, the
2375 court shall consider testimony and evidence regarding the
2376 ~~patient's~~ competence to consent to treatment. If the court finds
2377 that the patient is incompetent to consent to treatment, it
2378 shall appoint a guardian advocate as provided in s. 394.4598.

576-02050B-15

20157070pb

2379 ~~The guardian advocate shall be appointed or discharged in~~
2380 ~~accordance with s. 394.4598.~~

2381 (e) The administrator of the receiving facility, the
2382 detoxification facility, or the designated department
2383 representative shall provide a copy of the court order and
2384 adequate documentation of an individual's ~~a patient's~~ mental
2385 illness or substance abuse impairment to the service provider
2386 for involuntary outpatient placement. Such documentation must
2387 include any advance directives made by the individual ~~patient~~, a
2388 psychiatric evaluation of the individual ~~patient~~, and any
2389 evaluations of the individual ~~patient~~ performed by a ~~clinical~~
2390 psychologist or a clinical social worker.

2391 ~~(8) (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT~~
2392 ~~PLACEMENT.~~

2393 (a) ~~1.~~ If the individual ~~person~~ continues to meet the
2394 criteria for involuntary outpatient placement, the service
2395 provider shall, before the expiration of the period during which
2396 the placement ~~treatment~~ is ordered ~~for the person~~, file in the
2397 circuit court a petition for continued involuntary outpatient
2398 placement.

2399 ~~1.2.~~ The existing involuntary outpatient placement order
2400 remains in effect until disposition of ~~on~~ the petition for
2401 continued involuntary outpatient placement.

2402 ~~2.3.~~ A certificate must ~~shall~~ be attached to the petition
2403 which includes a statement from the individual's ~~person's~~
2404 physician or ~~clinical~~ psychologist justifying the request, a
2405 brief description of the individual's ~~patient's~~ treatment during
2406 the time he or she was involuntarily placed, and a personalized
2407 ~~an individualized~~ plan of continued treatment.

576-02050B-15

20157070pb

2408 ~~3.4.~~ The service provider shall develop the ~~individualized~~
2409 plan of continued treatment in consultation with the individual
2410 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if
2411 appointed. When the petition has been filed, the clerk of the
2412 court shall provide copies of the certificate and the
2413 ~~individualized~~ plan of continued treatment to the department,
2414 the individual patient, the individual's ~~patient's~~ guardian
2415 advocate, the state attorney, and the individual's ~~patient's~~
2416 private counsel or the public defender.

2417 (b) Within 1 court working day after the filing of a
2418 petition for continued involuntary outpatient placement, the
2419 court shall appoint the public defender to represent the
2420 individual person who is the subject of the petition, unless the
2421 individual person is otherwise represented by counsel. The clerk
2422 of the court shall immediately notify the public defender of
2423 such appointment. The public defender shall represent the
2424 individual person until the petition is dismissed, ~~or~~ the court
2425 order expires, or the individual patient is discharged from
2426 involuntary outpatient placement. Any attorney representing the
2427 individual patient shall have access to the individual patient,
2428 witnesses, and records relevant to the presentation of the
2429 individual's patient's case and shall represent the interests of
2430 the individual patient, regardless of the source of payment to
2431 the attorney.

2432 (c) The court shall inform the individual who is the
2433 subject of the petition and his or her guardian, guardian
2434 advocate, health care surrogate or proxy, or representative of
2435 the individual's right to an independent expert examination. If
2436 the individual cannot afford such an examination, the court

576-02050B-15

20157070pb

2437 shall provide one.

2438 (d)~~(e)~~ Hearings on petitions for continued involuntary
2439 outpatient placement are ~~shall be~~ before the circuit court. The
2440 court may appoint a magistrate ~~master~~ to preside at the hearing.
2441 The procedures for obtaining an order pursuant to this paragraph
2442 must ~~shall~~ be in accordance with subsection (6), except that the
2443 time period included in paragraph (1) (e) is not applicable in
2444 determining the appropriateness of additional periods of
2445 involuntary outpatient placement.

2446 (e)~~(d)~~ Notice of the hearing shall be provided in
2447 accordance with ~~as set forth in~~ s. 394.4599. The individual
2448 being served ~~patient~~ and the individual's ~~patient's~~ attorney may
2449 agree to a period of continued outpatient placement without a
2450 court hearing.

2451 (f)~~(e)~~ The same procedure shall be repeated before the
2452 expiration of each additional period the individual being served
2453 ~~patient~~ is placed in treatment.

2454 (g)~~(f)~~ If the individual in involuntary outpatient
2455 placement ~~patient~~ has previously been found incompetent to
2456 consent to treatment, the court shall consider testimony and
2457 evidence regarding the individual's ~~patient's~~ competence.
2458 Section 394.4598 governs the discharge of the guardian advocate
2459 if the individual's ~~patient's~~ competency to consent to treatment
2460 has been restored.

2461 Section 14. Section 394.467, Florida Statutes, is amended
2462 to read:

2463 394.467 Involuntary inpatient placement.—

2464 (1) CRITERIA.—An individual ~~A person~~ may be placed in
2465 involuntary inpatient placement for treatment upon a finding of

576-02050B-15

20157070pb

2466 the court by clear and convincing evidence that:

2467 (a) He or she has a mental illness or substance abuse
2468 impairment ~~is mentally ill~~ and because of his or her mental
2469 illness or substance abuse impairment:

2470 1.a. He or she has refused voluntary placement for
2471 treatment after sufficient and conscientious explanation and
2472 disclosure of the purpose of placement for treatment; or

2473 b. He or she is unable to determine for himself or herself
2474 whether placement is necessary; and

2475 2.a. He or she is manifestly incapable of surviving alone
2476 or with the help of willing and responsible family or friends,
2477 including available alternative services, and, without
2478 treatment, is likely to suffer from neglect or refuse to care
2479 for himself or herself, and such neglect or refusal poses a real
2480 and present threat of substantial harm to his or her well-being;
2481 or

2482 b. There is substantial likelihood that in the near future
2483 he or she will inflict serious bodily harm on self or others
2484 ~~himself or herself or another person~~, as evidenced by recent
2485 behavior causing, attempting, or threatening such harm; and

2486 (b) All available less restrictive treatment alternatives
2487 that ~~which would~~ offer an opportunity for improvement of his or
2488 her condition have been judged to be inappropriate.

2489 (2) ADMISSION TO A TREATMENT FACILITY.—An individual ~~A~~
2490 ~~patient~~ may be retained by a mental health receiving facility,
2491 an addictions receiving facility, or a detoxification facility,
2492 or involuntarily placed in a treatment facility upon the
2493 recommendation of the administrator of the receiving facility
2494 where the individual ~~patient~~ has been examined and after

576-02050B-15

20157070pb

2495 adherence to the notice and hearing procedures provided in s.
2496 394.4599. The recommendation must be supported by the opinion of
2497 a psychiatrist and the second opinion of a ~~clinical~~ psychologist
2498 or another psychiatrist, both of whom have personally examined
2499 the individual patient within the preceding 72 hours, that the
2500 criteria for involuntary inpatient placement are met. However,
2501 in a county that has a population of fewer than 50,000, if the
2502 administrator certifies that a psychiatrist or ~~clinical~~
2503 psychologist is not available to provide the second opinion, the
2504 second opinion may be provided by a licensed physician who has
2505 postgraduate training and experience in diagnosis and treatment
2506 of mental and nervous disorders or by a psychiatric nurse. If
2507 the petition seeks placement for treatment of substance abuse
2508 impairment only, and the individual is examined by an addictions
2509 receiving facility or detoxification facility, the first opinion
2510 may be provided by a physician and the second opinion may be
2511 provided by a substance abuse qualified professional. Any second
2512 opinion authorized in this subsection may be conducted through a
2513 face-to-face examination, in person or by electronic means. Such
2514 recommendation must ~~shall~~ be entered on an involuntary inpatient
2515 placement certificate that authorizes the receiving facility to
2516 retain the individual being held ~~patient~~ pending transfer to a
2517 treatment facility or completion of a hearing.

2518 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—The
2519 administrator of the mental health facility, addictions
2520 receiving facility, or detoxification facility shall file a
2521 petition for involuntary inpatient placement in the court in the
2522 county where the individual patient is located. Upon filing, the
2523 clerk of the court shall provide copies to the department, the

576-02050B-15

20157070pb

2524 individual patient, the individual's patient's guardian,
2525 guardian advocate, health care surrogate or proxy, or
2526 representative, and the state attorney and public defender of
2527 the judicial circuit in which the individual patient is located.
2528 A No fee may not shall be charged for the filing of a petition
2529 under this subsection.

2530 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
2531 after the filing of a petition for involuntary inpatient
2532 placement, the court shall appoint the public defender to
2533 represent the individual person who is the subject of the
2534 petition, unless the individual person is otherwise represented
2535 by counsel. The clerk of the court shall immediately notify the
2536 public defender of such appointment. Any attorney representing
2537 the individual patient shall have access to the individual
2538 patient, witnesses, and records relevant to the presentation of
2539 the individual's patient's case and shall represent the
2540 interests of the individual patient, regardless of the source of
2541 payment to the attorney.

2542 (a) An attorney representing an individual in proceedings
2543 under this part shall advocate the individual's expressed
2544 desires and must be present and actively participate in all
2545 hearings on involuntary placement. If the individual is unable
2546 or unwilling to express his or her desires to the attorney, the
2547 attorney shall proceed as though the individual expressed a
2548 desire for liberty, opposition to involuntary placement, and, if
2549 placement is ordered, a preference for the least restrictive
2550 treatment possible.

2551 (b) The state attorney for the circuit in which the
2552 individual is located shall represent the state rather than the

576-02050B-15

20157070pb

2553 petitioning facility administrator as the real party in interest
2554 in the proceeding. The state attorney shall have access to the
2555 individual's clinical record and witnesses and shall
2556 independently evaluate and confirm the allegations set forth in
2557 the petition for involuntary placement. If the allegations are
2558 substantiated, the state attorney shall prosecute the petition.
2559 If the allegations are not substantiated, the state attorney
2560 shall withdraw the petition.

2561 (5) CONTINUANCE OF HEARING.—The individual patient is
2562 entitled, with the concurrence of the individual's patient's
2563 counsel, to at least one continuance of the hearing. The
2564 continuance shall be for ~~a period of~~ up to 4 weeks.

2565 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

2566 (a)~~1.~~ The court shall hold the hearing on involuntary
2567 inpatient placement within 5 court working days after the
2568 petition is filed, unless a continuance is granted.

2569 1. The hearing shall be held in the county where the
2570 individual patient is located and shall be as convenient to the
2571 individual patient as may be consistent with orderly procedure
2572 and shall be conducted in physical settings not likely to be
2573 injurious to the individual's patient's condition. If the
2574 individual wishes to waive his or her court finds that the
2575 patient's attendance at the hearing, the court must determine
2576 that the waiver is knowingly, intelligently, and voluntarily
2577 being waived and is not consistent with the best interests of
2578 the patient, and the patient's counsel does not object, the
2579 court may waive the presence of the individual patient from all
2580 or any portion of the hearing. The state attorney for the
2581 circuit in which the patient is located shall represent the

576-02050B-15

20157070pb

2582 ~~state, rather than the petitioning facility administrator, as~~
2583 ~~the real party in interest in the proceeding.~~

2584 2. The court may appoint a general or special magistrate to
2585 preside at the hearing. One of the two professionals who
2586 executed the involuntary inpatient placement certificate shall
2587 be a witness. The individual patient and the individual's
2588 patient's guardian, guardian advocate, health care surrogate or
2589 proxy, or representative shall be informed by the court of the
2590 right to an independent expert examination. If the individual
2591 patient cannot afford such an examination, the court shall
2592 provide for one. The independent expert's report ~~is shall be~~
2593 confidential and not discoverable, unless the expert is to be
2594 called as a witness for the individual patient at the hearing.
2595 The testimony in the hearing must be given under oath, and the
2596 proceedings must be recorded. The individual patient may refuse
2597 to testify at the hearing.

2598 3. The court shall allow testimony from persons, including
2599 family members, deemed by the court to be relevant regarding the
2600 individual's prior history and how that prior history relates to
2601 the individual's current condition.

2602 (b) If the court concludes that the individual patient
2603 meets the criteria for involuntary inpatient placement, it shall
2604 order that the individual patient be transferred to a treatment
2605 facility or, if the individual patient is at a treatment
2606 facility, that the individual patient be retained there or be
2607 treated at any other appropriate mental health receiving
2608 facility, addictions receiving facility, detoxification
2609 facility, or treatment facility, or that the individual patient
2610 receive services from such a facility ~~a receiving or treatment~~

576-02050B-15

20157070pb

2611 facility, on an involuntary basis, for up to 90 days ~~a period of~~
2612 ~~up to 6 months~~. The order shall specify the nature and extent of
2613 the individual's patient's mental illness or substance abuse
2614 impairment. The facility shall discharge the individual at a
2615 ~~patient~~ any time the individual patient no longer meets the
2616 criteria for involuntary inpatient placement, unless the
2617 individual patient has transferred to voluntary status.

2618 (c) If at any time before ~~prior to~~ the conclusion of the
2619 hearing on involuntary inpatient placement it appears to the
2620 court that the individual person does not meet the criteria for
2621 involuntary inpatient placement under this section, but instead
2622 meets the criteria for involuntary outpatient placement, the
2623 court may order the individual person evaluated for involuntary
2624 outpatient placement pursuant to s. 394.4655, ~~and~~ the petition
2625 and hearing procedures set forth in s. 394.4655 ~~shall~~ apply. ~~If~~
2626 ~~the person instead meets the criteria for involuntary~~
2627 ~~assessment, protective custody, or involuntary admission~~
2628 ~~pursuant to s. 397.675, then the court may order the person to~~
2629 ~~be admitted for involuntary assessment for a period of 5 days~~
2630 ~~pursuant to s. 397.6811. Thereafter, all proceedings shall be~~
2631 ~~governed by chapter 397.~~

2632 (d) At the hearing on involuntary inpatient placement, the
2633 court shall consider testimony and evidence regarding the
2634 individual's patient's competence to consent to treatment. If
2635 the court finds that the individual patient is incompetent to
2636 consent to treatment, it shall appoint a guardian advocate as
2637 provided in s. 394.4598.

2638 (e) The administrator of the petitioning ~~receiving~~ facility
2639 shall provide a copy of the court order and adequate

576-02050B-15

20157070pb

2640 documentation of the individual's ~~a patient's~~ mental illness or
2641 substance abuse impairment to the administrator of a treatment
2642 facility if the individual ~~whenever a patient~~ is ordered for
2643 involuntary inpatient placement, whether by civil or criminal
2644 court. The documentation must ~~shall~~ include any advance
2645 directives made by the individual ~~patient~~, a psychiatric
2646 evaluation of the individual ~~patient~~, and any evaluations of the
2647 individual ~~patient~~ performed by a ~~elinical~~ psychologist, a
2648 marriage and family therapist, a mental health counselor, a
2649 substance abuse qualified professional or a clinical social
2650 worker. The administrator of a treatment facility may refuse
2651 admission to an individual ~~any patient~~ directed to its
2652 facilities on an involuntary basis, whether by civil or criminal
2653 court order, who is not accompanied at the same time by adequate
2654 orders and documentation.

2655 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
2656 PLACEMENT.—

2657 (a) Hearings on petitions for continued involuntary
2658 inpatient placement shall be administrative hearings and shall
2659 be conducted in accordance with ~~the provisions of~~ s. 120.57(1),
2660 except that an ~~any~~ order entered by an ~~the~~ administrative law
2661 judge is ~~shall be~~ final and subject to judicial review in
2662 accordance with s. 120.68. Orders concerning an individual
2663 ~~patients~~ committed after successfully pleading not guilty by
2664 reason of insanity are ~~shall be~~ governed by ~~the provisions of~~ s.
2665 916.15.

2666 (b) If the individual ~~patient~~ continues to meet the
2667 criteria for involuntary inpatient placement, the administrator
2668 shall, before ~~prior~~ to the expiration of the period ~~during which~~

576-02050B-15

20157070pb

2669 the ~~treatment~~ facility is authorized to retain the individual
2670 ~~patient~~, file a petition requesting authorization for continued
2671 involuntary inpatient placement. The request must ~~shall~~ be
2672 accompanied by a statement from the individual's ~~patient's~~
2673 physician or ~~clinical~~ psychologist justifying the request, a
2674 brief description of the individual's ~~patient's~~ treatment during
2675 the time he or she was involuntarily placed, and a personalized
2676 ~~an individualized~~ plan of continued treatment. Notice of the
2677 hearing must ~~shall~~ be provided as set forth in s. 394.4599. If
2678 at the hearing the administrative law judge finds that
2679 attendance at the hearing is not consistent with the
2680 individual's best interests ~~of the patient~~, the administrative
2681 law judge may waive the presence of the individual ~~patient~~ from
2682 all or any portion of the hearing, unless the individual
2683 ~~patient~~, through counsel, objects to the waiver of presence. The
2684 testimony in the hearing must be under oath, and the proceedings
2685 must be recorded.

2686 (c) Unless the individual ~~patient~~ is otherwise represented
2687 or is ineligible, he or she shall be represented at the hearing
2688 on the petition for continued involuntary inpatient placement by
2689 the public defender of the circuit in which the facility is
2690 located.

2691 (d) The Division of Administrative Hearings shall inform
2692 the individual and his or her guardian, guardian advocate,
2693 health care surrogate or proxy, or representative of the right
2694 to an independent expert examination. If the individual cannot
2695 afford such an examination, the court shall provide one.

2696 (e) ~~(d)~~ If at a hearing it is shown that the individual
2697 ~~patient~~ continues to meet the criteria for involuntary inpatient

576-02050B-15

20157070pb

2698 placement, the administrative law judge shall sign the order for
2699 continued involuntary inpatient placement for a period of up to
2700 90 days ~~not to exceed 6 months~~. The same procedure ~~must~~ shall be
2701 repeated prior to the expiration of each additional period the
2702 individual patient is retained.

2703 (f) ~~(e)~~ If continued involuntary inpatient placement is
2704 necessary for an individual ~~a patient~~ admitted while serving a
2705 criminal sentence, but whose sentence is about to expire, or for
2706 a minor patient involuntarily placed ~~while a minor~~ but who is
2707 about to reach the age of 18, the administrator shall petition
2708 the administrative law judge for an order authorizing continued
2709 involuntary inpatient placement.

2710 (g) ~~(f)~~ If the individual previously ~~patient~~ has been
2711 ~~previously~~ found incompetent to consent to treatment, the
2712 administrative law judge shall consider testimony and evidence
2713 regarding the individual's ~~patient's~~ competence. If the
2714 administrative law judge finds evidence that the individual
2715 ~~patient~~ is now competent to consent to treatment, the
2716 ~~administrative law~~ judge may issue a recommended order to the
2717 court that found the individual patient incompetent to consent
2718 to treatment that the individual's ~~patient's~~ competence be
2719 restored and that any guardian advocate previously appointed be
2720 discharged.

2721 (8) RETURN TO FACILITY OF PATIENTS. ~~If an individual held~~
2722 ~~When a patient~~ at a ~~treatment~~ facility involuntarily under this
2723 part leaves the facility without the administrator's
2724 authorization, the administrator may authorize a search for, the
2725 ~~patient~~ and the return of, the individual patient to the
2726 facility. The administrator may request the assistance of a law

576-02050B-15

20157070pb

2727 enforcement agency ~~in the search for and return of the patient.~~

2728 Section 15. Section 394.4672, Florida Statutes, is amended
2729 to read:

2730 394.4672 Procedure for placement of veteran with federal
2731 agency.—

2732 (1) A facility owned, operated, or administered by the
2733 United States Department of Veterans Affairs that provides
2734 mental health services has authority as granted by the
2735 Department of Veterans' Affairs to:

2736 (a) Initiate and conduct involuntary examinations pursuant
2737 to s. 394.463.

2738 (b) Provide voluntary treatment pursuant to s. 394.4625.

2739 (c) Petition for involuntary inpatient placement pursuant
2740 to s. 394.467.

2741 (d) Provide involuntary inpatient placement pursuant to
2742 this part.

2743 (2) ~~(1)~~ If a ~~Whenever it is determined by the court~~
2744 determines that an individual ~~a person~~ meets the criteria for
2745 involuntary placement and he or she ~~it appears that such person~~
2746 is eligible for care or treatment by the United States
2747 Department of Veterans Affairs or another ~~other~~ agency of the
2748 United States Government, the court, upon receipt of a
2749 certificate from the United States Department of Veterans
2750 Affairs or such other agency showing that facilities are
2751 available and that the individual ~~person~~ is eligible for care or
2752 treatment therein, may place that individual ~~person~~ with the
2753 United States Department of Veterans Affairs or other federal
2754 agency. The individual ~~person whose placement is sought~~ shall be
2755 personally served with notice of the pending placement

576-02050B-15

20157070pb

2756 proceeding in the manner as provided in this part., ~~and nothing~~
2757 ~~in~~ This section does not ~~shall~~ affect the individual's ~~his or~~
2758 ~~her~~ right to appear and be heard in the proceeding. Upon
2759 placement, the individual is ~~person shall be~~ subject to the
2760 ~~rules and~~ regulations of the United States Department of
2761 Veterans Affairs or other federal agency.

2762 (3) ~~(2)~~ The judgment or order of placement issued by a court
2763 of competent jurisdiction of another state or of the District of
2764 Columbia which places an individual, ~~placing a person~~ with the
2765 United States Department of Veterans Affairs or other federal
2766 agency for care or treatment has, ~~shall have~~ the same force and
2767 effect in this state as in the jurisdiction of the court
2768 entering the judgment or making the order., ~~and~~ The courts of
2769 the placing state or of the District of Columbia shall retain ~~be~~
2770 ~~deemed to have retained~~ jurisdiction of the individual ~~person~~ so
2771 placed. Consent is hereby given to the application of the law of
2772 the placing state or district with respect to the authority of
2773 the chief officer of any facility of the United States
2774 Department of Veterans Affairs or other federal agency operated
2775 in this state to retain custody or to transfer, parole, or
2776 discharge the individual ~~person~~.

2777 (4) ~~(3)~~ Upon receipt of a certificate of the United States
2778 Department of Veterans Affairs or another ~~such other~~ federal
2779 agency that facilities are available for the care or treatment
2780 of individuals who have mental illness or substance abuse
2781 impairment ~~mentally ill persons~~ and that an individual ~~the~~
2782 ~~person~~ is eligible for that care or treatment, the administrator
2783 of the receiving or treatment facility may ~~cause the~~ transfer of
2784 that individual ~~person~~ to the United States Department of

576-02050B-15

20157070pb

2785 Veterans Affairs or other federal agency. Upon ~~effecting~~ such
2786 transfer, the committing court shall be notified by the
2787 transferring agency. An individual may not ~~No person shall~~ be
2788 transferred ~~to the United States Department of Veterans Affairs~~
2789 ~~or other federal agency~~ if he or she is confined pursuant to the
2790 conviction of any felony or misdemeanor or if he or she has been
2791 acquitted of the charge solely on the ground of insanity, unless
2792 prior to transfer the court placing the individual ~~such person~~
2793 enters an order for the transfer after appropriate motion and
2794 hearing and without objection by the United States Department of
2795 Veterans Affairs.

2796 (5) ~~(4)~~ An individual ~~Any person~~ transferred as provided in
2797 this section ~~is shall be~~ deemed to be placed with the United
2798 States Department of Veterans Affairs or other federal agency
2799 pursuant to the original placement.

2800 Section 16. Paragraph (a) of subsection (1) of section
2801 394.875, Florida Statutes, is amended to read:

2802 394.875 Crisis stabilization units, residential treatment
2803 facilities, and residential treatment centers for children and
2804 adolescents; authorized services; license required.—

2805 (1) (a) The purpose of a crisis stabilization unit is to
2806 stabilize and redirect a client to the most appropriate and
2807 least restrictive community setting available, consistent with
2808 the client's needs. Crisis stabilization units may screen,
2809 assess, and admit for stabilization persons who present
2810 themselves to the unit and persons who are brought to the unit
2811 under s. 394.463. Clients may be provided 24-hour observation,
2812 medication prescribed by a physician or psychiatrist, and other
2813 appropriate services. Crisis stabilization units shall provide

576-02050B-15

20157070pb

2814 services regardless of the client's ability to pay ~~and shall be~~
2815 ~~limited in size to a maximum of 30 beds.~~

2816 Section 17. Section 916.185, Florida Statutes, is created
2817 to read:

2818 916.185 Forensic Hospital Diversion Pilot Program.—

2819 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
2820 that many jail inmates who have serious mental illnesses and who
2821 are committed to state forensic mental health treatment
2822 facilities for restoration of competency to proceed could be
2823 served more effectively and at less cost in community-based
2824 alternative programs. The Legislature further finds that many
2825 individuals who have serious mental illnesses and who have been
2826 discharged from state forensic mental health treatment
2827 facilities could avoid recidivism in the criminal justice and
2828 forensic mental health systems if they received specialized
2829 treatment in the community. Therefore, it is the intent of the
2830 Legislature to create the Forensic Hospital Diversion Pilot
2831 Program to serve individuals who have mental illnesses or co-
2832 occurring mental illnesses and substance use disorders and who
2833 are admitted to or are at risk of entering state forensic mental
2834 health treatment facilities, prisons, jails, or state civil
2835 mental health treatment facilities.

2836 (2) DEFINITIONS.—As used in this section, the term:

2837 (a) "Best practices" means treatment services that
2838 incorporate the most effective and acceptable interventions
2839 available in the care and treatment of individuals who are
2840 diagnosed as having mental illnesses or co-occurring mental
2841 illnesses and substance use disorders.

2842 (b) "Community forensic system" means the community mental

576-02050B-15

20157070pb

2843 health and substance use forensic treatment system, including
2844 the comprehensive set of services and supports provided to
2845 individuals involved in or at risk of becoming involved in the
2846 criminal justice system.

2847 (c) "Evidence-based practices" means interventions and
2848 strategies that, based on the best available empirical research,
2849 demonstrate effective and efficient outcomes in the care and
2850 treatment of individuals who are diagnosed as having mental
2851 illnesses or co-occurring mental illnesses and substance use
2852 disorders.

2853 (3) CREATION.—There is created a Forensic Hospital
2854 Diversion Pilot Program to provide, when appropriate,
2855 competency-restoration and community-reintegration services in
2856 locked residential treatment facilities, based on considerations
2857 of public safety, the needs of the individual, and available
2858 resources.

2859 (a) The department shall implement a Forensic Hospital
2860 Diversion Pilot Program in Alachua, Escambia, Hillsborough, and
2861 Miami-Dade Counties, in conjunction with the Eighth Judicial
2862 Circuit, the First Judicial Circuit, the Thirteenth Judicial
2863 Circuit, and the Eleventh Judicial Circuit, respectively, which
2864 shall be modeled after the Miami-Dade Forensic Alternative
2865 Center, taking into account local needs and resources.

2866 (b) In creating and implementing the program, the
2867 department shall include a comprehensive continuum of care and
2868 services which uses evidence-based practices and best practices
2869 to treat individuals who have mental health and co-occurring
2870 substance use disorders.

2871 (c) The department and the respective judicial circuits

576-02050B-15

20157070pb

2872 shall implement this section within available resources. The
2873 department may reallocate resources from forensic mental health
2874 programs or other adult mental health programs serving
2875 individuals involved in the criminal justice system.

2876 (4) ELIGIBILITY.—Participation in the Forensic Hospital
2877 Diversion Pilot Program is limited to individuals who:

2878 (a) Are 18 years of age or older;

2879 (b) Are charged with a felony of the second degree or a
2880 felony of the third degree;

2881 (c) Do not have a significant history of violent criminal
2882 offenses;

2883 (d) Have been adjudicated incompetent to proceed to trial
2884 or not guilty by reason of insanity under this part;

2885 (e) Meet public safety and treatment criteria established
2886 by the department for placement in a community setting; and

2887 (f) Would be admitted to a state mental health treatment
2888 facility if not for the availability of the Forensic Hospital
2889 Diversion Pilot Program.

2890 (5) TRAINING.—The Legislature encourages the Florida
2891 Supreme Court, in consultation and cooperation with the Task
2892 Force on Substance Abuse and Mental Health Issues in the Courts,
2893 to develop educational training on the community forensic system
2894 for judges in the pilot program areas.

2895 (6) RULEMAKING.—The department may adopt rules under ss.
2896 120.536(1) and 120.54 to administer this section.

2897 (7) REPORT.—The Office of Program Policy Analysis and
2898 Government Accountability shall review and evaluate the Forensic
2899 Hospital Diversion Pilot Program and submit a report to the
2900 Governor, the President of the Senate, and the Speaker of the

576-02050B-15

20157070pb

2901 House of Representatives by December 31, 2016. The report shall
2902 examine the efficiency and cost-effectiveness of providing
2903 forensic mental health services in secure, outpatient,
2904 community-based settings. In addition, the report shall examine
2905 the impact of the Forensic Hospital Diversion Pilot Program on
2906 public health and safety.

2907 Section 18. Paragraph (a) of subsection (3) of section
2908 39.407, Florida Statutes, is amended to read:

2909 39.407 Medical, psychiatric, and psychological examination
2910 and treatment of child; physical, mental, or substance abuse
2911 examination of person with or requesting child custody.—

2912 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
2913 or paragraph (e), before the department provides psychotropic
2914 medications to a child in its custody, the prescribing physician
2915 shall attempt to obtain express and informed consent, as defined
2916 in s. 394.455(13) ~~s. 394.455(9)~~ and as described in s.
2917 394.459(3) (a), from the child's parent or legal guardian. The
2918 department must take steps necessary to facilitate the inclusion
2919 of the parent in the child's consultation with the physician.
2920 However, if the parental rights of the parent have been
2921 terminated, the parent's location or identity is unknown or
2922 cannot reasonably be ascertained, or the parent declines to give
2923 express and informed consent, the department may, after
2924 consultation with the prescribing physician, seek court
2925 authorization to provide the psychotropic medications to the
2926 child. Unless parental rights have been terminated and if it is
2927 possible to do so, the department shall continue to involve the
2928 parent in the decisionmaking process regarding the provision of
2929 psychotropic medications. If, at any time, a parent whose

576-02050B-15

20157070pb

2930 parental rights have not been terminated provides express and
2931 informed consent to the provision of a psychotropic medication,
2932 the requirements of this section that the department seek court
2933 authorization do not apply to that medication until such time as
2934 the parent no longer consents.

2935 2. Any time the department seeks a medical evaluation to
2936 determine the need to initiate or continue a psychotropic
2937 medication for a child, the department must provide to the
2938 evaluating physician all pertinent medical information known to
2939 the department concerning that child.

2940 Section 19. Subsection (2) of section 394.4612, Florida
2941 Statutes, is amended to read:

2942 394.4612 Integrated adult mental health crisis
2943 stabilization and addictions receiving facilities.—

2944 (2) An integrated mental health crisis stabilization unit
2945 and addictions receiving facility may provide services under
2946 this section to adults who are 18 years of age or older and who
2947 fall into one or more of the following categories:

2948 (a) An adult meeting the requirements for voluntary
2949 admission for mental health treatment under s. 394.4625.

2950 (b) An adult meeting the criteria for involuntary
2951 examination for mental illness under s. 394.463.

2952 ~~(c) An adult qualifying for voluntary admission for
2953 substance abuse treatment under s. 397.601.~~

2954 ~~(d) An adult meeting the criteria for involuntary admission
2955 for substance abuse impairment under s. 397.675.~~

2956 Section 20. Paragraphs (a) and (c) of subsection (3) of
2957 section 394.495, Florida Statutes, are amended to read:

2958 394.495 Child and adolescent mental health system of care;

576-02050B-15

20157070pb

2959 programs and services.—

2960 (3) Assessments must be performed by:

2961 (a) A professional as defined in s. 394.455(6), (31), (34),
2962 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~;

2963 (c) A person who is under the direct supervision of a
2964 professional as defined in s. 394.455(6), (31), (34), (35), or
2965 (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional
2966 licensed under chapter 491.

2967

2968 The department shall adopt by rule statewide standards for
2969 mental health assessments, which must be based on current
2970 relevant professional and accreditation standards.

2971 Section 21. Subsection (6) of section 394.496, Florida
2972 Statutes, is amended to read:

2973 394.496 Service planning.—

2974 (6) A professional as defined in s. 394.455(6), (31), (34),
2975 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a
2976 professional licensed under chapter 491 must be included among
2977 those persons developing the services plan.

2978 Section 22. Subsection (2) of section 394.499, Florida
2979 Statutes, is amended to read:

2980 394.499 Integrated children's crisis stabilization
2981 unit/juvenile addictions receiving facility services.—

2982 (2) Children eligible to receive integrated children's
2983 crisis stabilization unit/juvenile addictions receiving facility
2984 services include:

2985 (a) A person under 18 years of age for whom voluntary
2986 application is made by his or her guardian, if such person is
2987 found to show evidence of mental illness and to be suitable for

576-02050B-15

20157070pb

2988 treatment pursuant to s. 394.4625. A person under 18 years of
2989 age may be admitted for integrated facility services only after
2990 a hearing to verify that the consent to admission is voluntary.

2991 (b) A person under 18 years of age who may be taken to a
2992 receiving facility for involuntary examination, if there is
2993 reason to believe that he or she is mentally ill and because of
2994 his or her mental illness, pursuant to s. 394.463:

2995 1. Has refused voluntary examination after conscientious
2996 explanation and disclosure of the purpose of the examination; or

2997 2. Is unable to determine for himself or herself whether
2998 examination is necessary; and

2999 a. Without care or treatment is likely to suffer from
3000 neglect or refuse to care for himself or herself; such neglect
3001 or refusal poses a real and present threat of substantial harm
3002 to his or her well-being; and it is not apparent that such harm
3003 may be avoided through the help of willing family members or
3004 friends or the provision of other services; or

3005 b. There is a substantial likelihood that without care or
3006 treatment he or she will cause serious bodily harm to himself or
3007 herself or others in the near future, as evidenced by recent
3008 behavior.

3009 ~~(c) A person under 18 years of age who wishes to enter~~
3010 ~~treatment for substance abuse and applies to a service provider~~
3011 ~~for voluntary admission, pursuant to s. 397.601.~~

3012 ~~(d) A person under 18 years of age who meets the criteria~~
3013 ~~for involuntary admission because there is good faith reason to~~
3014 ~~believe the person is substance abuse impaired pursuant to s.~~
3015 ~~397.675 and, because of such impairment:~~

3016 1. ~~Has lost the power of self-control with respect to~~

576-02050B-15

20157070pb

3017 ~~substance use; and~~

3018 ~~2.a. Has inflicted, or threatened or attempted to inflict,~~
3019 ~~or unless admitted is likely to inflict, physical harm on~~
3020 ~~himself or herself or another; or~~

3021 ~~b. Is in need of substance abuse services and, by reason of~~
3022 ~~substance abuse impairment, his or her judgment has been so~~
3023 ~~impaired that the person is incapable of appreciating his or her~~
3024 ~~need for such services and of making a rational decision in~~
3025 ~~regard thereto; however, mere refusal to receive such services~~
3026 ~~does not constitute evidence of lack of judgment with respect to~~
3027 ~~his or her need for such services.~~

3028 ~~(c)(e)~~ A person under 18 years of age who meets the
3029 criteria for examination or admission under paragraph (b) or
3030 paragraph (d) and has a coexisting mental health and substance
3031 abuse disorder.

3032 Section 23. Subsection (18) of section 394.67, Florida
3033 Statutes, is amended to read:

3034 394.67 Definitions.—As used in this part, the term:

3035 (18) "Person who is experiencing an acute substance abuse
3036 crisis" means a child, adolescent, or adult who is experiencing
3037 a medical or emotional crisis because of the use of alcoholic
3038 beverages or any psychoactive or mood-altering substance. ~~The~~
3039 ~~term includes an individual who meets the criteria for~~
3040 ~~involuntary admission specified in s. 397.675.~~

3041 Section 24. Subsection (2) of section 394.674, Florida
3042 Statutes, is amended to read:

3043 394.674 Eligibility for publicly funded substance abuse and
3044 mental health services; fee collection requirements.—

3045 (2) Crisis services, as defined in s. 394.67, must, within

576-02050B-15

20157070pb

3046 the limitations of available state and local matching resources,
3047 be available to each person who is eligible for services under
3048 subsection (1), regardless of the person's ability to pay for
3049 such services. A person who is experiencing a mental health
3050 crisis and who does not meet the criteria for involuntary
3051 examination under s. 394.463(1), ~~or a person who is experiencing~~
3052 ~~a substance abuse crisis and who does not meet the involuntary~~
3053 ~~admission criteria in s. 397.675,~~ must contribute to the cost of
3054 his or her care and treatment pursuant to the sliding fee scale
3055 developed under subsection (4), unless charging a fee is
3056 contraindicated because of the crisis situation.

3057 Section 25. Subsection (6) of section 394.9085, Florida
3058 Statutes, is amended to read:

3059 394.9085 Behavioral provider liability.—

3060 (6) For purposes of this section, the terms "detoxification
3061 services," "addictions receiving facility," and "receiving
3062 facility" have the same meanings as those provided in ss.
3063 397.311(18)(a)4., 397.311(18)(a)1., and 394.455(27) ~~394.455(26)~~,
3064 respectively.

3065 Section 26. Subsection (11) and paragraph (a) of
3066 subsection (18) of section 397.311, Florida Statutes, are
3067 amended to read:

3068 397.311 Definitions.—As used in this chapter, except part
3069 VIII, the term:

3070 (11) "Habitual abuser" means a person who is brought to the
3071 attention of law enforcement for being substance impaired, ~~who~~
3072 ~~meets the criteria for involuntary admission in s. 397.675,~~ and
3073 who has been taken into custody for such impairment three or
3074 more times during the preceding 12 months.

576-02050B-15

20157070pb

3075 (18) Licensed service components include a comprehensive
3076 continuum of accessible and quality substance abuse prevention,
3077 intervention, and clinical treatment services, including the
3078 following services:

3079 (a) "Clinical treatment" means a professionally directed,
3080 deliberate, and planned regimen of services and interventions
3081 that are designed to reduce or eliminate the misuse of drugs and
3082 alcohol and promote a healthy, drug-free lifestyle. As defined
3083 by rule, "clinical treatment services" include, but are not
3084 limited to, the following licensable service components:

3085 1. "Addictions receiving facility" is a secure, acute care
3086 facility that provides, at a minimum, detoxification and
3087 stabilization services, and is operated 24 hours per day, 7 days
3088 per week; ~~and is designated by the department to serve~~
3089 ~~individuals found to be substance use impaired as described in~~
3090 ~~s. 397.675~~ who meet the placement criteria for this component.

3091 2. "Day or night treatment" is a service provided in a
3092 nonresidential environment, with a structured schedule of
3093 treatment and rehabilitative services.

3094 3. "Day or night treatment with community housing" means a
3095 program intended for individuals who can benefit from living
3096 independently in peer community housing while participating in
3097 treatment services for a minimum of 5 hours a day for a minimum
3098 of 25 hours per week.

3099 4. "Detoxification" is a service involving subacute care
3100 that is provided on an inpatient or an outpatient basis to
3101 assist individuals to withdraw from the physiological and
3102 psychological effects of substance abuse and who meet the
3103 placement criteria for this component.

576-02050B-15

20157070pb

3104 5. "Intensive inpatient treatment" includes a planned
3105 regimen of evaluation, observation, medical monitoring, and
3106 clinical protocols delivered through an interdisciplinary team
3107 approach provided 24 hours per day, 7 days per week, in a highly
3108 structured, live-in environment.

3109 6. "Intensive outpatient treatment" is a service that
3110 provides individual or group counseling in a more structured
3111 environment, is of higher intensity and duration than outpatient
3112 treatment, and is provided to individuals who meet the placement
3113 criteria for this component.

3114 7. "Medication-assisted treatment for opiate addiction" is
3115 a service that uses methadone or other medication as authorized
3116 by state and federal law, in combination with medical,
3117 rehabilitative, and counseling services in the treatment of
3118 individuals who are dependent on opioid drugs.

3119 8. "Outpatient treatment" is a service that provides
3120 individual, group, or family counseling by appointment during
3121 scheduled operating hours for individuals who meet the placement
3122 criteria for this component.

3123 9. "Residential treatment" is a service provided in a
3124 structured live-in environment within a nonhospital setting on a
3125 24-hours-per-day, 7-days-per-week basis, and is intended for
3126 individuals who meet the placement criteria for this component.

3127 Section 27. Subsection (3) of section 397.431, Florida
3128 Statutes, is amended to read:

3129 397.431 Individual responsibility for cost of substance
3130 abuse impairment services.—

3131 (3) The parent, legal guardian, or legal custodian of a
3132 minor is not liable for payment for any substance abuse services

576-02050B-15

20157070pb

3133 provided to the minor without parental consent ~~pursuant to s.~~
3134 ~~397.601(4)~~, unless the parent, legal guardian, or legal
3135 custodian participates or is ordered to participate in the
3136 services, and only for the substance abuse services rendered. If
3137 the minor is receiving services as a juvenile offender, the
3138 obligation to pay is governed by the law relating to juvenile
3139 offenders.

3140 Section 28. Paragraph (b) of subsection (2) of section
3141 397.702, Florida Statutes, is amended to read:

3142 397.702 Authorization of local ordinances for treatment of
3143 habitual abusers in licensed secure facilities.-

3144 (2) Ordinances for the treatment of habitual abusers must
3145 provide:

3146 (b) That when seeking treatment of a habitual abuser, the
3147 county or municipality, through an officer or agent specified in
3148 the ordinance, must file with the court a petition which alleges
3149 the following information about the alleged habitual abuser (the
3150 respondent):

3151 1. The name, address, age, and gender of the respondent.

3152 2. The name of any spouse, adult child, other relative, or
3153 guardian of the respondent, if known to the petitioner, and the
3154 efforts by the petitioner, if any, to ascertain this
3155 information.

3156 3. The name of the petitioner, the name of the person who
3157 has physical custody of the respondent, and the current location
3158 of the respondent.

3159 4. That the respondent has been taken into custody for
3160 impairment in a public place, or has been arrested for an
3161 offense committed while impaired, three or more times during the

576-02050B-15

20157070pb

3162 preceding 12 months.

3163 ~~5. Specific facts indicating that the respondent meets the~~
3164 ~~criteria for involuntary admission in s. 397.675.~~

3165 5.6. Whether the respondent was advised of his or her right
3166 to be represented by counsel and to request that the court
3167 appoint an attorney if he or she is unable to afford one, and
3168 whether the respondent indicated to petitioner his or her desire
3169 to have an attorney appointed.

3170 Section 29. Paragraph (a) of subsection (1) of section
3171 397.94, Florida Statutes, is amended to read:

3172 397.94 Children's substance abuse services; information and
3173 referral network.—

3174 (1) The substate entity shall determine the most cost-
3175 effective method for delivering this service and may select a
3176 new provider or utilize an existing provider or providers with a
3177 record of success in providing information and referral
3178 services.

3179 (a) The plan must provide assurances that the information
3180 and referral network will include a resource directory that
3181 contains information regarding the children's substance abuse
3182 services available, including, but not limited to:

3183 ~~1. Public and private resources by service component,~~
3184 ~~including resources for involuntary admissions under s. 397.675.~~

3185 1.2. Hours of operation and hours during which services are
3186 provided.

3187 2.3. Ages of persons served.

3188 3.4. Description of services.

3189 4.5. Eligibility requirements.

3190 5.6. Fee schedules.

576-02050B-15

20157070pb

3191 Section 30. Section 402.3057, Florida Statutes, is amended
3192 to read:

3193 402.3057 Persons not required to be refingerprinted or
3194 rescreened.—Any provision of law to the contrary
3195 notwithstanding, human resource personnel who have been
3196 fingerprinted or screened pursuant to chapters 393, 394, 397,
3197 402, and 409, and teachers and noninstructional personnel who
3198 have been fingerprinted pursuant to chapter 1012, who have not
3199 been unemployed for more than 90 days thereafter, and who under
3200 the penalty of perjury attest to the completion of such
3201 fingerprinting or screening and to compliance with the
3202 provisions of this section and the standards for good moral
3203 character as contained in such provisions as ss. 110.1127(2)(c),
3204 393.0655(1), ~~394.457(6)~~, 397.451, 402.305(2), and 409.175(6),
3205 shall not be required to be refingerprinted or rescreened in
3206 order to comply with any caretaker screening or fingerprinting
3207 requirements.

3208 Section 31. Section 409.1757, Florida Statutes, is amended
3209 to read:

3210 409.1757 Persons not required to be refingerprinted or
3211 rescreened.—Any law to the contrary notwithstanding, human
3212 resource personnel who have been fingerprinted or screened
3213 pursuant to chapters 393, 394, 397, 402, and this chapter,
3214 teachers who have been fingerprinted pursuant to chapter 1012,
3215 and law enforcement officers who meet the requirements of s.
3216 943.13, who have not been unemployed for more than 90 days
3217 thereafter, and who under the penalty of perjury attest to the
3218 completion of such fingerprinting or screening and to compliance
3219 with this section and the standards for good moral character as

576-02050B-15

20157070pb

3220 contained in such provisions as ss. 110.1127(2)(c), 393.0655(1),
3221 ~~394.457(6)~~, 397.451, 402.305(2), 409.175(6), and 943.13(7), are
3222 not required to be refingerprinted or rescreened in order to
3223 comply with any caretaker screening or fingerprinting
3224 requirements.

3225 Section 32. Paragraph (b) of subsection (1) of section
3226 409.972, Florida Statutes, is amended to read:

3227 409.972 Mandatory and voluntary enrollment.—

3228 (1) The following Medicaid-eligible persons are exempt from
3229 mandatory managed care enrollment required by s. 409.965, and
3230 may voluntarily choose to participate in the managed medical
3231 assistance program:

3232 (b) Medicaid recipients residing in residential commitment
3233 facilities operated through the Department of Juvenile Justice
3234 or mental health treatment facilities as defined by s.
3235 394.455(47) ~~s. 394.455(32)~~.

3236 Section 33. Subsection (7) of section 744.704, Florida
3237 Statutes, is amended to read:

3238 744.704 Powers and duties.—

3239 (7) A public guardian shall not commit a ward to a mental
3240 health treatment facility, as defined in s. 394.455(47) ~~s.~~
3241 ~~394.455(32)~~, without an involuntary placement proceeding as
3242 provided by law.

3243 Section 34. Paragraph (a) of subsection (2) of section
3244 790.065, Florida Statutes, is amended to read:

3245 790.065 Sale and delivery of firearms.—

3246 (2) Upon receipt of a request for a criminal history record
3247 check, the Department of Law Enforcement shall, during the
3248 licensee's call or by return call, forthwith:

576-02050B-15

20157070pb

3249 (a) Review any records available to determine if the
3250 potential buyer or transferee:

3251 1. Has been convicted of a felony and is prohibited from
3252 receipt or possession of a firearm pursuant to s. 790.23;

3253 2. Has been convicted of a misdemeanor crime of domestic
3254 violence, and therefore is prohibited from purchasing a firearm;

3255 3. Has had adjudication of guilt withheld or imposition of
3256 sentence suspended on any felony or misdemeanor crime of
3257 domestic violence unless 3 years have elapsed since probation or
3258 any other conditions set by the court have been fulfilled or
3259 expunction has occurred; or

3260 4. Has been adjudicated mentally defective or has been
3261 committed to a mental institution by a court or as provided in
3262 sub-sub-subparagraph b.(II), and as a result is prohibited by
3263 state or federal law from purchasing a firearm.

3264 a. As used in this subparagraph, "adjudicated mentally
3265 defective" means a determination by a court that a person, as a
3266 result of marked subnormal intelligence, or mental illness,
3267 incompetency, condition, or disease, is a danger to himself or
3268 herself or to others or lacks the mental capacity to contract or
3269 manage his or her own affairs. The phrase includes a judicial
3270 finding of incapacity under s. 744.331(6)(a), an acquittal by
3271 reason of insanity of a person charged with a criminal offense,
3272 and a judicial finding that a criminal defendant is not
3273 competent to stand trial.

3274 b. As used in this subparagraph, "committed to a mental
3275 institution" means:

3276 (I) Involuntary commitment, commitment for mental
3277 defectiveness or mental illness, and commitment for substance

576-02050B-15

20157070pb

3278 abuse. The phrase includes involuntary inpatient placement as
3279 defined in s. 394.467, or involuntary outpatient placement as
3280 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
3281 ~~under s. 397.6818, and involuntary substance abuse treatment~~
3282 ~~under s. 397.6957~~, but does not include a person in a mental
3283 institution for observation or discharged from a mental
3284 institution based upon the initial review by the physician or a
3285 voluntary admission to a mental institution; or

3286 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
3287 admission to a mental institution for outpatient or inpatient
3288 treatment of a person who had an involuntary examination under
3289 s. 394.463, where each of the following conditions have been
3290 met:

3291 (A) An examining physician found that the person is an
3292 imminent danger to himself or herself or others.

3293 (B) The examining physician certified that if the person
3294 did not agree to voluntary treatment, a petition for involuntary
3295 outpatient or inpatient treatment would have been filed under s.
3296 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining physician
3297 certified that a petition was filed and the person subsequently
3298 agreed to voluntary treatment prior to a court hearing on the
3299 petition.

3300 (C) Before agreeing to voluntary treatment, the person
3301 received written notice of that finding and certification, and
3302 written notice that as a result of such finding, he or she may
3303 be prohibited from purchasing a firearm, and may not be eligible
3304 to apply for or retain a concealed weapon or firearms license
3305 under s. 790.06 and the person acknowledged such notice in
3306 writing, in substantially the following form:

576-02050B-15

20157070pb

3307

3308 "I understand that the doctor who examined me believes I am
3309 a danger to myself or to others. I understand that if I do not
3310 agree to voluntary treatment, a petition will be filed in court
3311 to require me to receive involuntary treatment. I understand
3312 that if that petition is filed, I have the right to contest it.
3313 In the event a petition has been filed, I understand that I can
3314 subsequently agree to voluntary treatment prior to a court
3315 hearing. I understand that by agreeing to voluntary treatment in
3316 either of these situations, I may be prohibited from buying
3317 firearms and from applying for or retaining a concealed weapons
3318 or firearms license until I apply for and receive relief from
3319 that restriction under Florida law."

3320

3321 (D) A judge or a magistrate has, pursuant to sub-sub-
3322 subparagraph c.(II), reviewed the record of the finding,
3323 certification, notice, and written acknowledgment classifying
3324 the person as an imminent danger to himself or herself or
3325 others, and ordered that such record be submitted to the
3326 department.

3327 c. In order to check for these conditions, the department
3328 shall compile and maintain an automated database of persons who
3329 are prohibited from purchasing a firearm based on court records
3330 of adjudications of mental defectiveness or commitments to
3331 mental institutions.

3332 (I) Except as provided in sub-sub-subparagraph (II), clerks
3333 of court shall submit these records to the department within 1
3334 month after the rendition of the adjudication or commitment.
3335 Reports shall be submitted in an automated format. The reports

576-02050B-15

20157070pb

3336 must, at a minimum, include the name, along with any known alias
3337 or former name, the sex, and the date of birth of the subject.

3338 (II) For persons committed to a mental institution pursuant
3339 to sub-sub-subparagraph b.(II), within 24 hours after the
3340 person's agreement to voluntary admission, a record of the
3341 finding, certification, notice, and written acknowledgment must
3342 be filed by the administrator of the receiving or treatment
3343 facility, as defined in s. 394.455, with the clerk of the court
3344 for the county in which the involuntary examination under s.
3345 394.463 occurred. No fee shall be charged for the filing under
3346 this sub-sub-subparagraph. The clerk must present the records to
3347 a judge or magistrate within 24 hours after receipt of the
3348 records. A judge or magistrate is required and has the lawful
3349 authority to review the records ex parte and, if the judge or
3350 magistrate determines that the record supports the classifying
3351 of the person as an imminent danger to himself or herself or
3352 others, to order that the record be submitted to the department.
3353 If a judge or magistrate orders the submittal of the record to
3354 the department, the record must be submitted to the department
3355 within 24 hours.

3356 d. A person who has been adjudicated mentally defective or
3357 committed to a mental institution, as those terms are defined in
3358 this paragraph, may petition the circuit court that made the
3359 adjudication or commitment, or the court that ordered that the
3360 record be submitted to the department pursuant to sub-sub-
3361 subparagraph c.(II), for relief from the firearm disabilities
3362 imposed by such adjudication or commitment. A copy of the
3363 petition shall be served on the state attorney for the county in
3364 which the person was adjudicated or committed. The state

576-02050B-15

20157070pb

3365 attorney may object to and present evidence relevant to the
3366 relief sought by the petition. The hearing on the petition may
3367 be open or closed as the petitioner may choose. The petitioner
3368 may present evidence and subpoena witnesses to appear at the
3369 hearing on the petition. The petitioner may confront and cross-
3370 examine witnesses called by the state attorney. A record of the
3371 hearing shall be made by a certified court reporter or by court-
3372 approved electronic means. The court shall make written findings
3373 of fact and conclusions of law on the issues before it and issue
3374 a final order. The court shall grant the relief requested in the
3375 petition if the court finds, based on the evidence presented
3376 with respect to the petitioner's reputation, the petitioner's
3377 mental health record and, if applicable, criminal history
3378 record, the circumstances surrounding the firearm disability,
3379 and any other evidence in the record, that the petitioner will
3380 not be likely to act in a manner that is dangerous to public
3381 safety and that granting the relief would not be contrary to the
3382 public interest. If the final order denies relief, the
3383 petitioner may not petition again for relief from firearm
3384 disabilities until 1 year after the date of the final order. The
3385 petitioner may seek judicial review of a final order denying
3386 relief in the district court of appeal having jurisdiction over
3387 the court that issued the order. The review shall be conducted
3388 de novo. Relief from a firearm disability granted under this
3389 sub-subparagraph has no effect on the loss of civil rights,
3390 including firearm rights, for any reason other than the
3391 particular adjudication of mental defectiveness or commitment to
3392 a mental institution from which relief is granted.

3393 e. Upon receipt of proper notice of relief from firearm

576-02050B-15

20157070pb

3394 disabilities granted under sub-subparagraph d., the department
3395 shall delete any mental health record of the person granted
3396 relief from the automated database of persons who are prohibited
3397 from purchasing a firearm based on court records of
3398 adjudications of mental defectiveness or commitments to mental
3399 institutions.

3400 f. The department is authorized to disclose data collected
3401 pursuant to this subparagraph to agencies of the Federal
3402 Government and other states for use exclusively in determining
3403 the lawfulness of a firearm sale or transfer. The department is
3404 also authorized to disclose this data to the Department of
3405 Agriculture and Consumer Services for purposes of determining
3406 eligibility for issuance of a concealed weapons or concealed
3407 firearms license and for determining whether a basis exists for
3408 revoking or suspending a previously issued license pursuant to
3409 s. 790.06(10). When a potential buyer or transferee appeals a
3410 nonapproval based on these records, the clerks of court and
3411 mental institutions shall, upon request by the department,
3412 provide information to help determine whether the potential
3413 buyer or transferee is the same person as the subject of the
3414 record. Photographs and any other data that could confirm or
3415 negate identity must be made available to the department for
3416 such purposes, notwithstanding any other provision of state law
3417 to the contrary. Any such information that is made confidential
3418 or exempt from disclosure by law shall retain such confidential
3419 or exempt status when transferred to the department.

3420 Section 35. Part IV of chapter 397, Florida Statutes,
3421 consisting of s. 397.601, Florida Statutes, is repealed.

3422 Section 36. Part V of chapter 397, Florida Statutes,

576-02050B-15

20157070pb

3423 consisting of ss. 397.675-397.6977, Florida Statutes, is
3424 repealed.

3425 Section 37. This act shall take effect July 1, 2015.